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Montana Publishes Adopted Drug Formulary Rule

December 21, 2018

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After an extensive and inclusive rulemaking process involving multiple stakeholder meetings and comment periods, the Montana Department of Labor and Industry posted their adopted drug formulary rule in the Montana Administrative Register on December 21, 2018. The rule is effective on January 1, 2019, with the actual application of the drug formulary coming in stages after that date.

The following are the highlights from the adopted rule:

- Designates the Official Disability Guidelines (ODG) Drug Formulary as the formulary for Montana workers' compensation claims
- Applies to outpatient services on new claims arising on or after April 1, 2019
- Applies to legacy claims (claims arising prior to April 1, 2019) at the later of April 1, 2020 or 90 days after the claimant and their physician receive the notice below
- For legacy claims with non “Y” status drugs, requires insurers to provide notice to claimants and treating physicians that their claim will be subject to the drug formulary on April 1, 2020, and that a transition plan, if needed, should be developed and approved
- Requires the Montana Department of Labor and Industry to annually select and approve a drug formulary
- Prescription drugs must comply with the Montana treatment guidelines
- Drugs with a “Y” status may be prescribed without prior authorization
- Drugs with an “N” status may be prescribed without prior authorization within the first seven days following the date of injury and limited to a seven day supply
- Prior authorization is required for:
 - “N” drugs, unless prescribed in the first seven days and limited to a seven day supply
 - Drugs not listed on the formulary
 - Medication that is experimental or investigational
 - And compounded medications, even if all ingredients are “Y” drugs

- The claims administrator has three business days from receipt to respond to a prior authorization request; otherwise, the medication is deemed approved
- For transitioning legacy claims using “N” drugs, the treating physician should:
 - Determine if the injured worker can transition to a “Y” drug, how that transition would work, and the medical justification for the transition from or maintenance of an “N” drug
 - And develop and submit to the insurer/claims administrator a documented plan for transitioning the injured worker to a “Y” drug or maintaining them on their current prescription drug regimen
- Establishes an expedited case review by the Department in situations where the claims administrator refuses to authorize a currently prescribed medication, which could result in a medical emergency
- Incorporates the drug formulary into the existing dispute resolution rule and the existing utilization and treatment guideline rules

Mitchell was engaged with other stakeholders in the development of this rule. We appreciate the open and inclusive approach taken by the Montana Department of Labor and Industry when developing the rule and we support the rule as adopted. This new rule is designed to help insurers and employers provide the best prescription drug care to their injured workers based on prevailing medical evidence. The formulary should help reduce the use of more problematic opioids and other medications that have proven challenging from both a cost and efficacy standpoint in the system.

For questions about the Montana Drug Formulary Rule, or other legislative or regulatory initiatives around the country, please contact Brian Allen, Vice President of Government Affairs, at Brian.Allen@mitchell.com or at 801.903.5754.



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