

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1846 Session of 2013

INTRODUCED BY QUINN, MACKENZIE, TURZAI, DIGIROLAMO, BARBIN, COHEN, EVANKOVICH, EVERETT, GERGELY, GINGRICH, GODSHALL, HARHART, MILLARD, R. MILLER, MILNE, NEILSON, OBERLANDER, ROZZI, SAYLOR, SWANGER, WATSON AND KAMPF, NOVEMBER 18, 2013

AS AMENDED ON THIRD CONSIDERATION, IN SENATE, OCTOBER 14, 2014

AN ACT

1 Amending the act of June 2, 1915 (P.L.736, No.338), entitled, as
2 reenacted and amended, "An act defining the liability of an
3 employer to pay damages for injuries received by an employe
4 in the course of employment; establishing an elective
5 schedule of compensation; providing procedure for the
6 determination of liability and compensation thereunder; and
7 prescribing penalties," further providing for schedule of
8 compensation AND FOR USE OF SAVINGS. <--

9 The General Assembly of the Commonwealth of Pennsylvania
10 hereby enacts as follows:

11 Section 1. Section 306(f.1) (3) (vi) of the act of June 2,
12 1915 (P.L.736, No.338), known as the Workers' Compensation Act,
13 reenacted and amended June 21, 1939 (P.L.520, No.281) and
14 amended June 24, 1996 (P.L.350, No.57), is amended to read:

15 Section 306. The following schedule of compensation is
16 hereby established:

17 \* \* \*

18 (f.1) \* \* \*

19 (3) \* \* \*

1 (vi) (A) The reimbursement for [prescription] drugs and  
2 professional pharmaceutical services shall be limited to one  
3 hundred ~~ten~~ per centum of the average wholesale price (AWP) of <--  
4 the product, calculated on a per unit basis, as of the date of  
5 dispensing.

6 (B) A physician seeking reimbursement for drugs dispensed by  
7 a physician shall include the original manufacturer's National  
8 Drug Code (NDC) number, as assigned by the Food and Drug  
9 Administration, on the bills and reports required under this  
10 section.

11 (C) In no event may a physician seek reimbursement in excess  
12 of one hundred TEN per centum of the AWP of the drugs dispensed <--  
13 by a physician as determined by reference to the original  
14 manufacturer's NDC number.

15 (D) A repackaged NDC number may not be used and will not be  
16 considered the original manufacturer's NDC number. If a  
17 physician seeking reimbursement for drugs dispensed by a  
18 physician does not include the original manufacturer's NDC  
19 number on the bills and reports required by this section,  
20 reimbursement shall be limited to one hundred TEN per centum of <--  
21 the AWP of the least expensive clinically equivalent drug,  
22 calculated on a per unit basis.

23 ~~(E) No outpatient provider, other than a pharmacy licensed <--~~  
24 ~~in this Commonwealth or another state, may seek reimbursement~~  
25 ~~for drugs dispensed in excess of an initial fifteen day supply,~~  
26 ~~commencing upon the employe's initial treatment following~~  
27 ~~injury. Reimbursement shall be made for such fifteen day supply~~  
28 ~~at the rates set forth in this section.~~

29 (E) NO OUTPATIENT PROVIDER, OTHER THAN A PHARMACY LICENSED <--  
30 IN THIS COMMONWEALTH OR ANOTHER STATE, MAY DO ANY OF THE

1 FOLLOWING:

2 (I) SEEK REIMBURSEMENT FOR A DRUG LISTED ON SCHEDULE II IN  
3 SECTION 4(2) OF THE ACT OF APRIL 14, 1972 (P.L.233, NO.64),  
4 KNOWN AS THE "CONTROLLED SUBSTANCE, DRUG, DEVICE AND COSMETIC  
5 ACT," DISPENSED IN EXCESS OF ~~AN~~ ONE INITIAL SEVEN-DAY SUPPLY, <--  
6 COMMENCING UPON THE EMPLOYEE'S INITIAL TREATMENT BY A HEALTH CARE  
7 PROVIDER UNDER THE PARTICULAR FOR AN INJURY RELATED TO A <--  
8 SPECIFIC WORKERS' COMPENSATION CLAIM NUMBER. SHOULD THE EMPLOYE <--  
9 REQUIRE A MEDICAL PROCEDURE, INCLUDING SURGERY, ~~AN~~ ONE <--  
10 ADDITIONAL FIFTEEN-DAY SUPPLY CAN BE DISPENSED COMMENCING ON THE  
11 DATE OF ~~SURGERY~~ THE MEDICAL PROCEDURE. <--

12 (II) SEEK REIMBURSEMENT FOR A DRUG LISTED ON SCHEDULE III IN  
13 SECTION ~~4(2)~~ 4(3) OF THE "CONTROLLED SUBSTANCE, DRUG, DEVICE AND <--  
14 COSMETIC ACT," WHICH CONTAINS HYDROCODONE DISPENSED IN EXCESS OF  
15 ~~AN~~ ONE INITIAL SEVEN-DAY SUPPLY, COMMENCING UPON THE EMPLOYE'S <--  
16 INITIAL TREATMENT BY A HEALTH CARE PROVIDER UNDER THE PARTICULAR <--  
17 FOR AN INJURY RELATED TO A SPECIFIC WORKERS' COMPENSATION CLAIM <--  
18 NUMBER. SHOULD THE EMPLOYE REQUIRE A MEDICAL PROCEDURE, <--  
19 INCLUDING SURGERY, ONE ADDITIONAL FIFTEEN-DAY SUPPLY CAN BE  
20 DISPENSED COMMENCING ON THE DATE OF THE MEDICAL PROCEDURE.

21 (III) SEEK REIMBURSEMENT FOR ANY OTHER DRUG DISPENSED IN  
22 EXCESS OF ~~AN~~ INITIAL TWENTY-DAY ONE INITIAL THIRTY-DAY SUPPLY, <--  
23 COMMENCING UPON THE EMPLOYE'S INITIAL TREATMENT BY A HEALTH CARE  
24 PROVIDER UNDER THE PARTICULAR WORKERS' COMPENSATION CLAIM  
25 NUMBER. <--

26 (IV) SEEK REIMBURSEMENT FOR ANY DRUGS DISPENSED WITHIN ANY <--  
27 PERIOD OF TIME IN EXCESS OF THE LIMITATIONS UNDER SUBPROVISION  
28 (I), (II) AND (III). IF ONE HEALTH CARE PROVIDER HAS DISPENSED  
29 DRUGS UNDER SUBPROVISION (I), (II) OR (III), NO OTHER HEALTH  
30 CARE PROVIDER MAY SUBMIT FOR REIMBURSEMENT FOR DRUGS DISPENSED

1 TO THAT EMPLOYEE UNDER THE SAME WORKERS' COMPENSATION CLAIM.

2 ~~(IV)~~ (F) REIMBURSEMENT FOR ALL DRUGS DISPENSED IN ACCORDANCE <--  
3 WITH THIS SUBSECTION SHALL BE MADE AT THE RATES SET FORTH IN  
4 THIS SECTION.

5 ~~(F)~~ (G) No outpatient provider, other than a pharmacy <--  
6 licensed in this Commonwealth or another state, may seek  
7 reimbursement for an over-the-counter drug.

8 ~~(G)~~ (H) THE WORKERS' COMPENSATION ADVISORY COUNCIL SHALL <--  
9 ANNUALLY CONDUCT A STUDY OF THE IMPACT OF THIS SUBCLAUSE,  
10 INCLUDING CALCULATION OF THE SAVINGS ACHIEVED IN THE DISPENSING  
11 OF PHARMACEUTICALS.

12 ~~(G)~~ (H) (I) For purposes of this subclause, clinical <--  
13 equivalence, in reference to a drug, means the drug has chemical  
14 equivalents which, when administered in the same amounts, will  
15 provide essentially the same therapeutic effect as measured by  
16 the control of a symptom or a disease.

17 \* \* \*

18 SECTION 1.1. WITHIN 18 MONTHS FOLLOWING THE EFFECTIVE DATE <--  
19 OF THIS SECTION, THE PENNSYLVANIA COMPENSATION RATING BUREAU  
20 SHALL CALCULATE THE SAVINGS ACHIEVED THROUGH THE IMPLEMENTATION  
21 OF THE AMENDMENT OF SECTION 306(F.1)(3)(VI) OF THE ACT. FOR  
22 CALENDAR YEAR 2016, THE AMOUNT OF THE SAVINGS SHALL BE USED TO  
23 PROVIDE AN IMMEDIATE REDUCTION IN RATES, EQUAL TO THE SAVINGS,  
24 APPLICABLE TO EMPLOYERS' WORKERS COMPENSATION POLICIES.

25 Section 2. This act shall take effect in 60 days.