

WORKERS' COMPENSATION ACT - SCHEDULE OF COMPENSATION AND USE
OF SAVINGS

Act of Oct. 27, 2014, P.L. 2894, No. 184

Cl. 77

Session of 2014

No. 2014-184

HB 1846

AN ACT

Amending the act of June 2, 1915 (P.L.736, No.338), entitled, as reenacted and amended, "An act defining the liability of an employer to pay damages for injuries received by an employe in the course of employment; establishing an elective schedule of compensation; providing procedure for the determination of liability and compensation thereunder; and prescribing penalties," further providing for schedule of compensation and for use of savings.

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

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

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

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(f.1) * * *

(3) * * *

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

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

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

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

(E) No outpatient provider, other than a pharmacy licensed in this Commonwealth or another state, may do any of the following:

(I) Seek reimbursement for a drug listed on Schedule II in section 4(2) of the act of April 14, 1972 (P.L.233, No.64), known as the "Controlled Substance, Drug, Device and Cosmetic Act," dispensed in excess of one initial seven-day supply, commencing upon the employe's initial treatment by a health

care provider for an injury related to a specific workers' compensation claim. Should the employe require a medical procedure, including surgery, one additional fifteen-day supply can be dispensed commencing on the date of the medical procedure.

(II) Seek reimbursement for a drug listed on Schedule III in section 4(3) of the "Controlled Substance, Drug, Device and Cosmetic Act," which contains hydrocodone dispensed in excess of one initial seven-day supply, commencing upon the employe's initial treatment by a health care provider for an injury related to a specific workers' compensation claim. Should the employe require a medical procedure, including surgery, one additional fifteen-day supply can be dispensed commencing on the date of the medical procedure.

(III) Seek reimbursement for any other drug dispensed in excess of one initial thirty-day supply, commencing upon the employe's initial treatment by a health care provider under the particular workers' compensation claim.

(IV) Seek reimbursement for any drugs dispensed within any period of time in excess of the limitations under subprovision (I), (II) and (III). If one health care provider has dispensed drugs under subprovision (I), (II) or (III), no other health care provider may submit for reimbursement for drugs dispensed to that employe under the same workers' compensation claim.

(F) Reimbursement for all drugs dispensed in accordance with this subsection shall be made at the rates set forth in this section.

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

(H) The Workers' Compensation Advisory Council shall annually conduct a study of the impact of this subclause, including calculation of the savings achieved in the dispensing of pharmaceuticals.

(I) For purposes of this subclause, clinical equivalence, in reference to a drug, means the drug has chemical equivalents which, when administered in the same amounts, will provide essentially the same therapeutic effect as measured by the control of a symptom or a disease.

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Section 1.1. Within 18 months following the effective date of this section, the Pennsylvania Compensation Rating Bureau shall calculate the savings achieved through the implementation of the amendment of section 306(f.1)(3)(vi) of the act. For calendar year 2016, the amount of the savings shall be used to provide an immediate reduction in rates, equal to the savings, applicable to employers' workers compensation policies.

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

APPROVED--The 27th day of October, A.D. 2014.

TOM CORBETT