

Rural Area Impact Statement:

1. Effect of rule:

All payers (insurance carriers, self-insured employers and third-party administrators) will need to comply. Many municipalities, including those in rural areas, are self-insured for workers' compensation. These entities will need to comply with this rule.

2. Compliance Requirements:

The proposal allows payers to provide injured workers with written notice, which may be electronic, when the payer will not authorize dispensing medication for an alleged workers' compensation injury. The notice will contain information as to how the medication may be obtained by the injured worker. This notice is only required when the payer will not authorize and pay for the medication. A payer who does not authorize medication and does not supply notice to the injured worker will be subject to a penalty under the Workers' Compensation Law for the costs of proceedings at the Board to resolve the issue. A payer who elects to provide notice will be responsible for the cost of the medication at the fee schedule rate plus 25%, in the event that the Board finds the alleged injury to be compensable under the Workers' Compensation Law.

3. Professional Services:

Rural employers should not need any new professional services to comply with this rule.

4. Compliance Costs:

Overall, this proposal is expected to be cost neutral but will provide added clarity for an injured worker attempting to get prescribed medication. The notice that payers may provide will be created by the Board and may be delivered electronically. These minimal compliance costs are balanced by the anticipated reduction in frictional costs associated

with resolving the disputes and the necessity of assuring that injured workers have access to medically necessary medication even when it is unclear if the need for the medication is due to their work-related injury or not.

While there are possible penalties included in this proposal for payers who do not follow the notice requirements, whether or not payers incur such penalties is within their control.

5. Economic and technological feasibility:

It is economically and technologically feasible for rural businesses to comply with the proposed amendments. The proposal requires the payer to be aware of an injured worker possibly going to a non-designated pharmacy for prescribed medication when a particular body part or condition has not yet been accepted, and requires written notification when the injured worker must go to the designated pharmacy, but nothing in the proposal is specialized or particular different than the requirements payers have now, except the form of the notice may change as it is prescribed by the Chair.

6. Minimizing adverse impact:

This proposal provides guidelines and clear rules so that the injured worker can obtain needed prescription medication. The proposal minimizes adverse impacts by allowing the payers to elect whether to provide medically necessary medication within the network or notify the injured worker that they will not be paying for the medication and the injured worker may obtain the medication outside of the workers' compensation pharmacy network.

The legislature has taken notice of this interest and introduced legislation to help combat this issue as well, but a regulatory approach is more streamlined and more efficient – both with guiding payer behavior and with ensuring injured workers continue to have access to their prescribed medication even when there is a legal objection/the claim is controverted.

This proposal should avoid the unnecessary litigation and hearings that would be required under the bill.

7. Rural Area Participation:

The Board has solicited comments for the proposal on its website from all participants in the workers' compensation system, including rural employers, and will duly consider all comments received.