



WORKERS' COMPENSATION

LEGISLATIVE NEWSLETTER

Updates on key state and national level legislative and regulatory news, and their potential impacts on the workers' compensation industry.

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CALIFORNIA

DWC Adopts Changes to MTUS Drug Formulary

California DWC adopts updates to the Medical Treatment Utilization Schedule (MTUS) Drug List. Changes were based on Anxiety Disorders Guideline and the Opioids Guideline of the American College of Occupational and Environmental Medicine (ACOEM) Practice Guidelines, published by Reed Group.

The evidence-based drug formulary is consistent with the Medical Treatment Utilization Schedule (MTUS) and designed to enhance quality medical care and promote return to work in a timely manner while reducing cost.

Drugs identified in the drug list as “non-exempt” require authorization through prospective review prior to the drug being dispensed. Drugs identified as “exempt” may be dispensed without authorization through prospective review. Drugs identified as “special fill” may be dispensed without prospective review if specific conditions are met such as having been prescribed at the initial visit if the visit is within seven days of the date of injury and the prescription is for a supply not exceeding the limit in the MTUS drug list.

The updated drug list applies to services provided on or after November 1, 2024. The updated drug list can be [HERE](#).

NEW YORK

Emergency Adoption Allows Treatment by Physical Therapy and Occupational Therapy Assistants

The New York State Chair adopted an [amendment](#) on an emergency basis and proposed permanent amendment to Section 329-1.3 of Title 12 of the NYCRR.

Governor Kathy Hochul signed an amendment to Assembly bill A1204A into law allowing licensed occupational therapy assistants and physical therapy assistants to treat injured workers in the New York State workers' compensation system. The assistants must provide care under the direction and supervision of a Board-authorized occupational or physical therapist.

This amendment takes effect on October 27, 2024, and the Notice of Emergency Adoption and Proposed Rule Making will be published in the November 13, 2024, edition of the [State Register](#).

Comments on the proposal will be accepted for 60 days after publication. Comments can be submitted by emailing regulations@wcb.ny.gov.

NEW MEXICO

NM Workers' Compensation Administration Proposes Rule Changes

New Mexico's Workers' Compensation Administration proposed rule changes that would create self-imposed interest for bills not paid timely and double the payment for health care provider depositions.

Proposed changes include:

- Failure to properly contest a bill or make good faith payment within 30 days of receipt shall result in ten percent interest rate of the unpaid fee schedule amount or \$25.00, whichever is greater, to be paid at the same time as the unpaid bill.
- Increased days' supply of health care provider dispensed medication from 10 to 14 days for new prescriptions. Reimbursement for renewal or refill prescriptions for health care provider dispensed medication will not be allowed unless preauthorized by the payer.
- Increased payments for health care provider depositions from \$400 to \$800 for the first hour and from \$360 to \$700 for the second and subsequent hours. Increases have also been proposed for deposition preparation time from \$200 to \$400 for the first hour and from \$120 to \$250 per hour for the second or third hours.
- Increased non-refundable fee from \$400 to \$800 charged by the health care provider when a deposition is scheduled by an attorney who is a no-show or fails to cancel at least 48 hours in advance.

Proposed rule changes can be reviewed [HERE](#).

The NM Workers' Compensation Administration is accepting written comments on the proposed changes until 5:00 pm on November 12, 2024. Comments may be sent to the attention of the WCA's Office of General Counsel, gc.clerk@wca.nm.gov.

EK Health Services Inc. is a leading national workers' compensation managed care organization. EK Health restores quality of life for injured workers through innovative, cost-effective solutions, while providing client services with high-touch experiences, customizable solutions, lower costs, and proven results. Our holistic approach integrates the best people, processes, and technology to facilitate the best medical treatment available for return-to-work possibilities.

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