

3749--B

2011-2012 Regular Sessions

I N   S E N A T E

March 3, 2011

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Introduced by Sens. ROBACH, ADDABBO, JOHNSON, McDONALD -- read twice and ordered printed, and when printed to be committed to the Committee on Labor -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the workers' compensation law, in relation to prescription prices and pharmacies for injured employees

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1     Section 1. Paragraph 5 of subdivision (i) of section 13 of the work-  
2     ers' compensation law, as added by chapter 6 of the laws of 2007 is  
3     amended and three new paragraphs 6, 7 and 8 are added to read as  
4     follows:  
5     (5) [Notwithstanding any other provision of this chapter, if] IF an  
6     employer or carrier has contracted with a pharmacy to provide prescribed  
7     medicine to claimants, then such employer or carrier may require claim-  
8     ants to obtain all prescribed medicines from the pharmacy with which it  
9     has contracted, except if a medical emergency occurs and it would not be  
10    reasonably possible to obtain immediately required prescribed medicine  
11    from the pharmacy with which the employer or carrier has a contract. An  
12    employer or carrier that requires claimants to obtain prescribed medi-  
13    cines from a pharmacy with which it has a contract must notify claimants  
14    of the pharmacy or pharmacies with which it has a contract, the  
15    locations and addresses of the pharmacy or pharmacies, if applicable,  
16    how to initially fill and refill prescriptions through the mail, inter-  
17    net, telephone or other means, and any other required information that  
18    must be supplied to the pharmacy or pharmacies. If the pharmacy or phar-  
19    macies with which the employer or carrier contracts does not offer mail  
20    order service and does not have a physical location within a reasonable  
21    distance from the claimant, as defined by regulation of the board, the

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets  
[ ] is old law to be omitted.

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1 claimant may obtain prescribed medicines at the pharmacy or pharmacies  
2 of his or her choice and the employer or carrier will be liable for such  
3 charges in accordance with the fee schedule prescribed in section thir-  
4 teen-o of this [chapter] ARTICLE.

5 (6) NOTWITHSTANDING PARAGRAPH FIVE OF THIS SUBDIVISION, AN EMPLOYER OR  
6 CARRIER SHALL BE PROHIBITED FROM REFUSING TO ALLOW A CLAIMANT TO UTILIZE  
7 A PHARMACY OF HIS OR HER CHOICE TO FURNISH THE PRESCRIBED MEDICATIONS  
8 REQUIRED BY THE CLAIMANT AS LONG AS SUCH PHARMACY'S CHARGES COMPLY WITH  
9 THE PUBLISHED PRICES.

10 (7) ANY PHARMACY THAT HAS PROVIDED PRESCRIBED MEDICINE TO A CLAIMANT  
11 AND HAS NOT BEEN REIMBURSED IN ACCORDANCE WITH THE PROVISIONS OF PARA-  
12 GRAPH ONE OF THIS SUBDIVISION SHALL BE ENTITLED TO MAINTAIN AN ACTION  
13 AGAINST THE CARRIER TO RECOVER THE AMOUNTS DUE TO SUCH PHARMACY PURSUANT  
14 TO THIS SUBDIVISION IN ACCORDANCE WITH REGULATIONS TO BE ESTABLISHED BY  
15 THE BOARD OR THE CHAIRMAN. WHERE A PHARMACY BILL HAS BEEN DETERMINED TO  
16 BE DUE AND OWING IN ACCORDANCE WITH THE PROVISIONS OF THIS SUBDIVISION,  
17 THE BOARD SHALL INCLUDE IN THE AMOUNT OF THE AWARD INTEREST OF NOT MORE  
18 THAN ONE AND ONE-HALF PERCENT PER MONTH PAYABLE TO THE PHARMACY IN  
19 ACCORDANCE WITH THE RULES AND REGULATIONS PROMULGATED BY THE BOARD.

20 (8) NOTWITHSTANDING ANY OTHER PROVISION IN THIS CHAPTER, THE INITIAL  
21 FILL OF A PRESCRIPTION MEDICINE IN CONNECTION WITH A CLAIM FOR BENEFITS  
22 UNDER THIS SUBDIVISION SHALL NOT CONTAIN A SUPPLY OF SUCH MEDICINE FOR A  
23 PERIOD OF LONGER THAN FOURTEEN DAYS. FOR THE PURPOSES OF THIS PARAGRAPH,  
24 "INITIAL FILL" SHALL BE DEFINED AS A PRESCRIPTION OR A COMBINATION OF  
25 PRESCRIPTIONS FOR MEDICATION ISSUED BY AN AUTHORIZED MEDICAL PROVIDER AT  
26 THE TIME OF DISCOVERY OF INJURY OR ILLNESS BUT SHALL NOT INCLUDE  
27 PRESCRIPTIONS THAT MAY BE WRITTEN SEVENTY-TWO HOURS OR MORE FROM THE  
28 TIME OF INITIAL MEDICAL CARE.

29 S 2. This act shall take effect immediately.