

# STATE OF NEW YORK

10413

## IN ASSEMBLY

March 3, 2026

Introduced by M. of A. BRONSON -- read once and referred to the Committee on Labor

AN ACT to amend the workers' compensation law, in relation to access to prescription medication and coordination with workers' compensation board regulations governing network pharmacy use

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Legislative findings and intent. The legislature hereby  
2 finds that timely access to medically necessary prescription medication  
3 is essential to the health, safety, and recovery of injured workers, and  
4 that delays in authorization or dispensing may cause unnecessary pain,  
5 medical deterioration, and increased system costs.

6 The legislature further finds that the workers' compensation board has  
7 adopted regulations governing out-of-network pharmacy access, effective  
8 July 2025, which allow injured workers to obtain prescription medication  
9 out of network when a contracted pharmacy fails to dispense such medica-  
10 tion and which provide for payment surcharges when medication is subse-  
11 quently determined to be compensable. These regulations represent impor-  
12 tant protections that should be codified in statute to ensure  
13 permanence, consistency, and enforceability, while preserving the  
14 board's authority to adapt to evolving medical and pharmaceutical deliv-  
15 ery systems.

16 It is the intent of this act to codify and harmonize existing regula-  
17 tory protections in statute, establish clear, objective, and time-based  
18 standards that minimize litigation and factual disputes, ensure prompt  
19 access to prescription medication, preserve administrative efficiency,  
20 and maintain the workers' compensation board's full regulatory flexibil-  
21 ity to address emerging issues related to prescription medication  
22 access.

23 § 2. Subdivision (i) of section 13 of the workers' compensation law is  
24 amended by adding a new paragraph 6 to read as follows:

25 (6)(i) Notwithstanding paragraph five of this subdivision, a claimant  
26 shall be permitted to obtain prescribed medication from a pharmacy of

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

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1 such claimant's choice outside of an employer or carrier contracted  
2 pharmacy network when any of the following objective conditions occur:

3 (A) a prescription medication that has been authorized for dispensing  
4 by the employer or insurance carrier has not been dispensed by a  
5 contracted network pharmacy within the timeframes for dispensing estab-  
6 lished by regulations of the workers' compensation board, as documented  
7 in the workers' compensation board's electronic system of record or in  
8 written authorization communications;

9 (B) the employer, insurance carrier, or contracted network pharmacy  
10 has failed to issue a written authorization or reauthorization determi-  
11 nation within the timeframes established by regulations of the workers'  
12 compensation board following documented receipt of a request for such  
13 determination, as reflected in the workers' compensation board's elec-  
14 tronic data interchange system or, if submitted by mail, by the date  
15 shown on the return receipt for certified mail; provided that, for  
16 purposes of this subparagraph, a request for which the employer, insur-  
17 ance carrier, or contracted network pharmacy seeks additional informa-  
18 tion shall not toll or extend the applicable regulatory timeframe unless  
19 and to the extent expressly authorized by the workers' compensation  
20 board's regulations under specified circumstances;

21 (C) the claimant requires emergency prescription medication necessary  
22 to prevent imminent harm to health or safety, as defined or recognized  
23 under applicable medical treatment guidelines or regulations adopted by  
24 the workers' compensation board, including but not limited to opioid  
25 antagonists, insulin, cardiac medications, seizure medications, or anti-  
26 biotics for acute infections;

27 (D) circumstances exist that permit out-of-network pharmacy access  
28 pursuant to regulations adopted by the workers' compensation board under  
29 its authority to ensure timely access to prescription medication,  
30 including regulations providing for payment surcharges when medication  
31 is subsequently determined to be compensable; or

32 (E) such other circumstances as the workers' compensation board may  
33 identify by regulation to address delays in medication access that are  
34 inconsistent with medical treatment guidelines or that impede the claim-  
35 ant's recovery, provided that such regulations establish objective,  
36 documentary, or time-based standards and do not require individualized  
37 factual determinations by the board as a prerequisite to out-of-network  
38 access.

39 (ii) Any pharmacy dispensing prescribed medication pursuant to subpar-  
40 agraph (i) of this paragraph shall:

41 (A) adhere to the amounts prescribed by the workers' compensation  
42 pharmacy fee schedule adopted pursuant to section thirteen-o of this  
43 article;

44 (B) comply with the workers' compensation medical treatment guidelines  
45 promulgated pursuant to subdivision five of section thirteen-a of this  
46 article for the claimant's site of injury for which the medication is  
47 prescribed;

48 (C) comply with the workers' compensation pharmacy formulary estab-  
49 lished pursuant to section thirteen-p of this article; and

50 (D) assume financial responsibility for the cost of such medication in  
51 accordance with the fee schedule prescribed under section thirteen-o of  
52 this article if:

53 (I) the workers' compensation claim is denied or not established; or

54 (II) the prescribed medication is determined to be non-compensable by  
55 the workers' compensation board or a court of competent jurisdiction.

(iii) Upon a determination that the prescribed medication dispensed pursuant to this paragraph is compensable, the dispensing pharmacy shall be entitled to payment or reimbursement from the employer or carrier. The employer or carrier shall pay the amount prescribed by the fee schedule established under section thirteen-o of this article or, if the prescribed medication is not included on the current fee schedule, the usual and customary charges for such prescribed medication, within the timeframes established by the workers' compensation board pursuant to regulation. Such pharmacy shall be permitted to continue to dispense such prescribed medication to the claimant outside of the contracted network after payment or reimbursement for the prescribed medication is established.

(iv) The objective conditions set forth in subparagraph (i) of this paragraph are self-executing and shall not require a determination by the workers' compensation board as a prerequisite to out-of-network pharmacy access. The provisions of this paragraph shall be construed consistently with regulations adopted by the board to ensure timely access to prescription medication and shall not be construed to limit the board's authority to adopt, amend, or implement rules and regulations that facilitate medication access or minimize administrative burden.

(v) The provisions of this paragraph shall be construed as complementary to regulations adopted by the workers' compensation board governing pharmacy networks, medication authorization, and out-of-network access. To the extent any such regulation provides greater access to out-of-network pharmacy services or establishes more protective timeframes for injured workers than those specified in this paragraph, such regulation shall control. No regulation shall be construed to diminish the protections established by this paragraph.

(vi) A claimant's exercise of the right to obtain medication from an out-of-network pharmacy pursuant to this paragraph shall not constitute evidence regarding the compensability of the underlying claim or the medical necessity of the medication, and the fact that medication was obtained out-of-network shall not be admissible for such purpose in any proceeding before the workers' compensation board.

§ 3. Reporting requirement. No later than three years after the effective date of this act, the workers' compensation board shall submit a report to the governor, the temporary president of the senate, and the speaker of the assembly analyzing the implementation of paragraph six of subdivision (i) of section thirteen of the workers' compensation law as added by section two of this act. Such report shall include:

(a) data on the frequency and circumstances of out-of-network pharmacy utilization under this act;

(b) data on medication access delays before and after implementation of this act;

(c) information regarding any increase or decrease in litigation or administrative proceedings related to pharmacy access issues;

(d) analysis of costs and cost savings associated with improved medication access;

(e) stakeholder feedback from injured workers, employers, carriers, pharmacies, and health care providers; and

(f) recommendations for statutory or regulatory modifications to improve medication access, reduce administrative burden, or address implementation challenges.

§ 4. Severability. If any clause, sentence, paragraph, subdivision, section, or part of this act shall be adjudged by any court of competent

1 jurisdiction to be invalid, such judgment shall not affect, impair, or  
2 invalidate the remainder thereof, but shall be confined in its operation  
3 to the clause, sentence, paragraph, subdivision, section, or part there-  
4 of directly involved in the controversy in which such judgment shall  
5 have been rendered. It is hereby declared to be the intent of the legis-  
6 lature that this act would have been enacted even if such invalid  
7 provisions had not been included herein.

8 § 5. This act shall take effect on the sixtieth day after it shall  
9 have become a law. Effective immediately, the addition, amendment and/or  
10 repeal of any rule or regulation necessary for the implementation of  
11 this act on its effective date are authorized to be made and completed  
12 on or before such effective date.