



Return to : Opioid Use Issues Loom as State Works on Drug Formulary

Texas -- Opioid Use Issues Loom as State Works on Drug Formulary: *Top* [03/29/10]

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Washington may be the first state to adopt a workers' compensation drug formulary but the Texas Division of Workers' Compensation hopes to become the second – some day -- but first it has to decide how narcotic drugs should be prescribed and used.

On Friday, the Insurance Council of Texas filed comments with the DWC on the division's current informal draft rule, stressing the need to look closely at opioids.

That emphasis isn't surprising, given a recent study by the National Council on Compensation Insurance (NCCI) – cited by the Insurance Council – that shows narcotics account for nearly one-quarter of all workers' compensation pharmacy costs nationwide.

House Bill 7, passed by the state Legislature in 2007, directed the DWC to adopt a closed formulary, but the effort has been difficult. The division has issued three informal drafts but hasn't yet set a deadline for proposing a final rule.

The Insurance Council has urged the division to "develop and publish a timeline" for the work.

In its comments Friday, the council said "few members of the medical community would object to the use of narcotics to treat severe, chronic, cancer-related pain."

"However, the medical community seems divided over the suitability of narcotics to treat other forms of pain, such as those resulting from the majority of workers' compensation injuries," the council said.

The council said the NCCI report "noted that several recent articles and studies...point to increased scrutiny of narcotics use."

"One article notes that, in at least one state, diagnoses of chronic pain or failed back syndrome virtually guarantee that the claim involves over prescription of narcotics because these are the diagnoses used to justify the use of narcotics," the council said.

The NCCI also noted that narcotics' share of workers' compensation drug costs increases as claims age, that narcotics are used mostly for back injuries in workers' compensation cases and narcotics use early in the life of claims is increasing – and can persist for many years, giving rise to so-called "legacy claims," the council reported.

Texas' experience with narcotic drug use in its workers' compensation system is similar to most other states, the council said: "an excessive amount of drugs are being prescribed and used."

The Pharmaceutical Descriptive Analysis Report by the Texas Department of Insurance Workers' Compensation Research and Evaluation Group in July 2007 showed payments for prescription drugs in the Texas system accounted for 14% of all medical costs in 2006, with payments totaling \$131,647,000.

The report also showed 49% of insured workers received prescriptions in 2006, and that a "disproportionate share" of pharmaceutical costs (46%) in 2006 came from injuries sustained between 1991 and 2000.

The Insurance Council said the rules that ultimately are adopted "need to address both legacy and new claims without overwhelming the resources of doctors, pharmacies, insurers, and the DWC."

The council said it "supports the general concept of the informal draft rules that would apply the closed drug formulary to new claims immediately and phase in the application of the rules to legacy claims in 2013," but still has "some concerns" about the current proposal.

→ Jim Andrews, R.Ph., senior vice president of pharmacy services at Cypress Care, said he believes the

JIM ANDREWS }
division is moving in the right direction in its efforts to draft the formulary. Andrews also said it's prudent to look at how opioids are being used to treat injured workers.

Applying the formulary to legacy claims could be problematic, but the DWC recognizes the issue and is working to address this through a phased-in approach, Andrews said. In addition, the DWC is working to define how to handle situations when a prescription is presented at a pharmacy and requires pre-authorization, he said.

Physicians will be encouraged to review the new formulary requirements in order to ensure that injured workers are able to obtain their prescriptions in a timely manner, he explained.

Joseph Paduda, owner of a pharmacy benefit manager consortium, CompPharma, believes what the DWC is trying to do "makes a lot of sense."

"The way Texas is going about it is taking more time than anybody would like... But that's because there is no other model," Paduda said.

Paduda noted Washington does have a formulary but said it is "a monopolistic state," while Texas - which doesn't require most employers to carry workers' compensation insurance - is quite different. "This (formulary) hasn't been tried in a state with a competitive market," he said.

Paduda said the Texas formulary should help to manage utilization, "which is the biggest cost driver" for prescription drugs.

The Insurance Council also targeted compounding of drugs, something Steve Nichols, workers' compensation manager for the council, said "has been a problem in other states."

The council argues compounding "should be deemed medically necessary only when the prescribing physician is able to provide a reasonable, scientifically-based rationale for why the injured employee cannot have their medication needs met by an existing medication or combination of medications."

"Compounding should not be used to provide nutritional supplements, medical foods or other non-pharmaceutical substances unless a clear and compelling need exists based on the patient's original industrial injury and current clinical status," the council said.

The council also called for a cap on the amount pharmacies are paid if a drug is compounded to prevent "incentivizing compounding."

Paduda said that there is "very little evidence" to support use of compounded medications in most instances.

Several major players, including the Texas Pain Society and Texas Medical Association (TMA), have not yet commented on the draft rule.

Warren Cooper, director of health care delivery systems for the association, said TMA plans to comment when a final rule is proposed.

Return to : Opioid Use Issues Loom as State Works on Drug Formulary

Print News