

SENATE BILL NO. 292

INTRODUCED BY M. ROSENDALE

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A BILL FOR AN ACT ENTITLED: "AN ACT REVISING WORKERS' COMPENSATION LAWS APPLYING TO INSURANCE PAYMENT OF PRESCRIPTION DRUGS; AUTHORIZING A DRUG FORMULARY APPLYING TO INJURED WORKERS; PROVIDING RULEMAKING AUTHORITY TO THE DEPARTMENT OF LABOR AND INDUSTRY; AMENDING SECTION 39-71-727, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE AND AN APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**Section 1.** Section 39-71-727, MCA, is amended to read:

**"39-71-727. Payment for prescription drugs -- drug formulary -- limitations -- rulemaking.** ~~(1) For payment of prescription drugs, an insurer is liable only for the purchase of generic-name drugs if the generic-name product is the therapeutic equivalent of the brand-name drug prescribed by the physician, unless the generic-name drug is unavailable.~~ (1) (a) By July 1, 2016, the department shall establish rules implementing an outpatient drug formulary that lists drugs that are payable for the treatment of compensable injuries and occupational diseases.

(b) The department may establish rules for payment and reimbursement for compound prescription drugs.

(c) The department may establish rules for maximum morphine equivalent dosage that are payable for schedule II and schedule III narcotic pain medications within the formulary.

(d) (i) An insurer is not liable for the purchase of brand-name drugs if a generic-name product, which is the therapeutic equivalent within the class, is available.

~~(2)(ii)~~ (ii) If an injured worker prefers a brand-name drug, the worker may pay directly to the pharmacist the difference in the reimbursement rate between the brand-name drug and the generic-name product, and the pharmacist may bill the insurer only for the reimbursement rate of the generic-name drug.

(e) An insurer is not responsible for payment of prescription drugs that are not included in the formulary unless the treating physician documents that a drug not included in the formulary is medically necessary to treat an injured worker and the treating physician receives prior authorization by the insurer. HOWEVER, PRIOR

1 AUTHORIZATION REQUIRED UNDER THIS SUBSECTION IS NOT REQUIRED FOR INPATIENT OR EMERGENCY TREATMENTS.

2 (f) The department shall establish rules implementing an independent medical review process for  
 3 prescription drugs denied by an insurer pursuant to this subsection (1). A party aggrieved by the department's  
 4 independent medical review process may, after mediation, file a petition with the workers' compensation court.

5 ~~———— (3) The pharmacist may bill only for the cost of the generic-name product on a signed itemized billing,~~  
 6 ~~except if purchase of the brand-name drug is allowed as provided in subsection (1).~~

7 ~~———— (4) When billing for a brand-name drug, the pharmacist shall certify that the generic-name drug was~~  
 8 ~~unavailable.~~

9 (5)(2) The department shall establish a schedule of fees for prescription drugs. The schedule of fees  
 10 does not apply to an agreement between a preferred provider organization and an insurer.

11 (6)(3) Except as provided in subsection (8) (4) or the drug formulary, a pharmacist may not dispense  
 12 MEDICATIONS MAY NOT BE DISPENSED FOR more than a 30-day supply at any one time.

13 ~~(7) For purposes of this section, the terms "brand name" and "generic name" have the meanings~~  
 14 ~~provided in 37-7-502.~~

15 (8)(4) An insurer may not require a worker receiving benefits under this chapter to obtain medications  
 16 from an out-of-state mail service pharmacy. However, an insurer may authorize up to a 90-day supply of  
 17 medications from an in-state mail service pharmacy.

18 ~~(9) The provisions of this section do not apply to an agreement between a preferred provider~~  
 19 ~~organization and an insurer."~~

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21 NEW SECTION. Section 2. Effective date. [This act] is effective July 1, 2016.

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23 NEW SECTION. Section 3. Applicability. [This act] applies to injuries or occupational diseases that  
 24 occur on or after [the effective date of this act].

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