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DWCNewsline

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Notice of rulemaking for pharmacy fee schedule regulation amendments

The Division of Workers' Compensation (DWC) proposed amendments to the Official Medical Fee Schedule, pharmacy fees, (regulation § 9789.40) will be published in the California Notice on Friday, Sep. 15, 2006. A public hearing has been scheduled for Tuesday, Oct. 31, 2006, in the auditorium of the state building at 1515 Clay Street in Oakland. Members of the public may comment on the proposed regulations until 5 p.m. on that day.

The amendments to the regulation would close a loop hole created from legislation passed in 2003. Currently, Labor Code section 5307.1 requires that reimbursement rates for medical services, except physician fees, be in accordance with the relevant Medicare and Medi-Cal payment systems. However, those systems do not allow drugs to be dispensed by doctors in their offices. This exception allows doctors to be reimbursed for drugs dispensed during office visits at much higher rates than those paid to pharmacies for the same drugs, thereby creating a loophole in the reimbursement structure. The DWC proposed regulation closes that loophole.

The regulatory changes would become effective Dec. 1, 2006. The text of the regulation is essentially the same as was posted on the DWC forum in May. There are minor, technical changes in language, and the effective date was added. The reference to the "National Drug Code for the underlying drug product from the original manufacturer," has been changed to the "National Drug Code for the underlying drug product from the original labeler. "

The proposed regulation as filed with the Office of Administrative Law can be found on the DWC Web site at

http://www.dir.ca.gov/DWC/DWCPropRegs/OMFS_Pharmaceuticals/OMFS_Pharmaceuticals_regulations.htm.

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