

# Workers' Comp Legislative Activity

December 15, 2019 – February 1, 2020

## ILLINOIS

### HB 2792

**Issues:** Workers' Compensation (Pharmacy Fee Schedule)

**Summary for 2/14/19 Version:** This measure makes existing medical fee schedules inoperative after August 31, 2020 and stipulates that the Illinois Workers' Compensation Commission must establish new medical fee schedules applicable on and after September 1, 2020 in accordance with specified criteria.

This measure provides for non-hospital fee schedules and hospital fee schedules applicable to different geographic areas of the State.

The measure sets forth a procedure for petitioning the Commission if a maximum fee causes a significant limitation on access to quality health care in either a specific field of health care services or a specific geographic limitation on access to health care.

**Outlook:** This measure is eligible to be carried over to the 2020 Legislative Session. In Illinois, the Legislature's rules allow for measures to be carried over from regular sessions in odd-numbered years to regular sessions in even-numbered years. All bills and resolutions are referred to either the House Rules Committee or the Senate Assignments Committee. The status of each measure and resolution will be the same at the beginning of the next regular session as it was immediately before the adjournment of the previous regular session. The Illinois Legislature is expected to convene for the 2020 Legislative Session in January.

**Links:** [2/14/2019 Version](#)

#### Status History:

- **02/14/2019** - Introduced
- **02/26/2019** - Referred to House Labor & Commerce Committee
- **03/06/2019** - Hearing held; Referred to House Workforce Development Subcommittee
- **03/13/2019** - Hearing held
- **03/20/2019** - Hearing held
- **03/27/2019** - Hearing held
- **03/29/2019** - Rule 19(a)/ Re-referred to House Rules Committee
- **06/02/2019** - Carried over to 2020 Legislative Session

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**NEBRASKA****LB 487**

**Issues:** Workers' Compensation (Prescription Drug Formulary)

**Summary for 1/22/2019 Version:** This measure establishes a formulary for workers' compensation drugs. This measure permits the Nebraska Workers' Compensation Court to adopt an evidence-based drug formulary consisting of prescription drugs listed in Schedules II, III, IV and V. The formulary will apply to prescription drugs that are prescribed and dispensed for outpatient use in connection with workers' compensation claims with a date of injury on or after January 1, 2018.

A prescription drug included in the formulary adopted by the compensation court and recommended may be prescribed and dispensed without obtaining prior authorization from the workers' compensation insurer, risk management pool or self-insured employer.

A prescription drug not included in the formulary adopted by the compensation court or that is included but not recommended is presumed to be reasonable if prior authorization for such drugs is obtained from the workers' compensation insurer, risk management pool or self-insured employer.

The measure requires the compensation court to consult with stakeholders regarding the adoption of a drug formulary. The stakeholders should include employers, insurers, private sector employee representatives, public sector employee representatives, treating physicians actively practicing medicine, pharmacists, and attorneys representing injured workers or employers.

Any party may request a finding by an independent medical examiner if the workers' compensation insurer, risk management pool or self-insured employer denies payment for a prescription drug that is not included in the formulary adopted by the compensation court or that is included but not recommended in such formulary or if prior authorization is denied.

The compensation court may adopt and promulgate rules and regulations necessary to implement this provision.

**Outlook:** This measure is eligible to be carried over to the 2020 Legislative Session. In Nebraska, all bills on which no final action has been taken by the time of adjournment of the regular session in odd-numbered years shall be held over for consideration at the regular session convening in even-numbered years.

**Links:** [1/22/2019 Version](#)

**Status History:**

- **01/22/2019** - Introduced
- **01/24/2019** - Referred to Business and Labor Committee
- **03/04/2019** - Hearing held
- **05/31/2019** - Carried over to 2020 Legislative Session

## NEW YORK

### AB 864

**Issues:** Workers' Compensation (Direction of Care)

**Summary for 1/11/2019 Version:** This measure allows a workers' compensation claimant to utilize a pharmacy of their choice. This measure prohibits an employer or carrier from refusing to allow a claimant to utilize a pharmacy of their choice to furnish prescribed medications required by the claimant so long as the pharmacy's charges are below the pharmaceutical fee schedule.

**Outlook:** This measure has been re-referred to the Assembly Labor Committee, where Marcos A. Crespo (D) serves as Chair. This measure awaits further consideration from the chair.

**Links:** [1/11/2019 Version](#)

**Status History:**

- **01/11/2019** - Introduced; referred to Assembly Labor Committee
- **01/08/2020** - Re-referred to the Assembly Labor Committee

## NEW YORK

### AB 6823

**Issues:** Workers' Compensation (Medical Coverage and Reimbursement)

**Summary for 03/20/2019 Version:** The measure amends the workers' compensation law, in relation to authorizing certain care and treatment to injured employees.

This measure allows the chair of the workers' compensation board to set the fee schedule for massage therapy services provided to injured employees upon referral by the injured employee's physician. The chair of the workers' compensation board may request the president of a recognized professional association representing licensed massage therapists to submit to him or her a report of the amount of remuneration deemed to be fair and reasonable.

The measure stipulates that where massage therapy care is rendered, records of the patient's condition and progress, together with records of instruction for treatment shall be maintained by the massage therapist and physician. The measure mandates that a duly licensed massage therapist cannot be authorized to perform independent medical examinations.

**Outlook:** This measure has been re-referred to the Assembly Labor Committee, which is chaired by Assembly member Marcos Crespo (D). This measure is eligible for a hearing in the Committee.

**Links:** [3/20/2019 Version](#)

**Status History:**

- **03/20/2019** - Introduced; referred to Assembly Labor Committee
- **01/08/2020** - Re-referred to the Assembly Labor Committee

**NEW YORK****SB 7245 - Relates to Contracted Network Pharmacy Use**

**Issues:** Workers' Compensation (Prescription Drug Formulary)

**Summary for 1/14/2020 Version:** The measure amends worker compensation law and further outlines requirements for employers and carriers in regard to pharmacies.

The measure mandates if an employer or carrier has contracted with a pharmacy to provide prescribed medicine to claimants, the employer or carrier can encourage claimants to obtain all prescribed medications from the pharmacy it has contracted with.

The measure stipulates claimants can obtain prescribed medicines at a pharmacy of their choice as long as it is registered as a resident, in-state pharmacy with the New York Board of Pharmacy and the employer or carrier will be liable for such charges in accordance with the fee schedule, relevant to work-related injuries and are in accordance with the New York workers' compensation pharmacy formulary and other applicable board regulations.

The measure does not apply to any resident, in-state pharmacies that are contracted with the network pharmacy that the employer or carrier designates as their preferred and encouraged network pharmacy. Such pharmacies must process all claims through their contracts with the employer's or carrier's designated pharmacy. The measure mandates the employer or carrier can have the right to deny any charges from non-resident, out-of-state pharmacies and deny charges for non-FDA approved compound medications.

**Outlook:** This measure has been introduced and referred to the Senate Labor Committee chaired by Senator Jessica Ramos (D). This measure awaits further consideration from the chair.

**Links:** [1/14/2020 Version](#)

**Status History:** **01/14/2020** - Introduced; Referred to Senate Labor Committee

**PENNSYLVANIA****HM 28852**

**Issues:** Workers' Compensation (General)

**Summary for 3/18/2019:** Representative David Hickernell (R) has announced his intention to address providing employers with an option to use a workers' compensation healthcare network.

In his statement: "I will be introducing legislation to improve the workers' compensation (WC) system in Pennsylvania by providing an option for employers to utilize a healthcare network. Current law only allows employers to utilize a network approach for the first 90 days of treatment. This network option – known in WC as a 'provider panel' – has benefited patients."

"The PA Department of Labor and Industry conducts regular surveys of injured workers' and a series of questions delve into patient experience as it relates to network care. The survey consistently shows that patients have better experience and outcomes when their employers provide a network option. The most recent survey released in 2017 showed that patients who received treatment through a network were more likely to be satisfied with their care, the timing of their return to work; and more likely to have their rights explained to them. Indeed, the survey also found that injured workers who did not have access to a network on average lost 33 percent more workdays. Utilization of networks also helps control costs without compromising patient care."

"Working in Pennsylvania has never been safer as employers continue to emphasize and invest in workplace safety and employee health, and as we've transitioned to a more service-based economy. The result has been a gradual decline in the number of workplace accidents. At the same time, the average cost of individual claims continues to increase and can still spiral out of control – which can lead to significant insurance cost increases on employers and worse outcomes for the worker."

"Rising healthcare costs is a challenge for all types of health insurance, which is why strategies have been broadly implemented to mitigate costs. Provider networks are one such strategy that is fairly standard in group health, commercial and public health insurance. Network care helps ensure acceptable standards of provider quality and integrity and allows for more effective coordination among health professionals, which helps eliminate unnecessary services, excessive or duplicative treatment and over-prescribing of medication. It also helps prevent abuse from some of the bad apples in the system who use injured workers to enrich themselves rather than focus on patient care. We have seen such examples recently in Pennsylvania and they are unacceptable."

"According to the Workers' Compensation Research Institute, most states provide employers a managed care option. Many states, like New Jersey for example, allow employers to choose the providers – no network or time limit. It would certainly appear that providing a network option for Pennsylvania employers is a reasonable compromise and aligned with national standards. "

"The time period in which employers can utilize network care has been increased over the years – from 14 days, to 30 days and eventually 90 days – as its benefits to the patient and system have become apparent. This experiment has been a demonstrable success and it is time to allow for network care for the duration of the claim. "

"Providing for a network option will help control costs, prevent and combat fraud and abuse and make Pennsylvania more competitive; all while helping to ensure that quality care and employee health remain the top priority. "

**Outlook:** This measure was formally introduced as HB 1784. HB 1784 will act as the main vehicle for this measure going forward.

Links: [3/18/2019 Version](#)

**Status History:**

- **03/18/2019** - Co-Sponsorship Memo Posted
- **08/30/2019** - Introduced as HB 1784

## VERMONT

### HB 14

**Issues:** Workers' Compensation (Medical Marijuana)

**Summary for 1/9/19 Version:** This bill proposes to extend benefit payments in workers' compensation insurance claims to the prescription of medical marijuana.

This measure dictates that an employer shall be subject to furnish an injured employee reasonable marijuana for symptom relief in workers' compensation claims.

Disputes regarding payment of a medical bill maybe filed with the Commissioner by the injured employee, the healthcare provider, or the dispensary. Medical bills shall also be paid within in a contract between the aforementioned parties.

An employer or insurance carrier shall not impose on any health care provider or dispensary any retrospective denial of a previously paid medical bill or any part of that previously paid medical bill, unless the employer or insurance carrier has provided at least 30 days' notice of any retrospective denial or overpayment recovery to the health care provider or dispensary.

**Outlook:** This measure is eligible to be carried over to the 2020 Legislative Session. In Vermont, the Legislature's rules allow for measures to be carried over from regular sessions in odd-numbered years to regular sessions in even-numbered years. The status of each measure and resolution will be the same at the beginning of the next regular session as it was immediately before the adjournment of the previous regular session. The Vermont Legislature is expected to convene for the 2020 Legislative Session on January 7, 2020.

Links: [01/09/2019 Version](#)

**Status History:**

- **01/10/2019** - Referred to House Committee on Commerce and Economic Development
- **03/21/2019** - Hearing held
- **03/28/2019** - Hearing held
- **04/03/2019** - Hearing held
- **05/29/2019** - Carried over to 2020 Legislative Session