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 Florida Department of Financial Services
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 Chief Financial Officer

All Employer/Carriers Providing Reimbursement for Dispensed Medication Under Chapter 440, Florida Statutes

The Division of Workers' Compensation has received inquiries as to whether it is appropriate for employers/carriers to deny authorization or reimbursement for prescription medication solely because the medication is dispensed by the treating physician who is a licensed Florida dispensing practitioner instead of a pharmacist. The answer is "no". Sick or injured employees have the right to choose to have their prescriptions dispensed by a dispensing practitioner as authorized in Florida law.

The following sections of Florida Statute are relevant to the issue:

465.0276 Dispensing practitioner.—

- (1) A person may not dispense medicinal drugs unless licensed as a pharmacist or otherwise authorized under this chapter to do so, except that a practitioner authorized by law to prescribe drugs may dispense such drugs to her or his patients in the regular course of her or his practice in compliance with this section.
- (2) (b) A practitioner who dispenses medicinal drugs for human consumption for fee or remuneration of any kind, whether direct or indirect, must: Comply with and be subject to all laws and rules applicable to pharmacists and pharmacies, including, but not limited to, this chapter...

440.13 Medical services and supplies; penalty for violations; limitations.—

- (3) (j) [A] sick or injured employee shall be entitled, at all times, to free, full, and absolute choice in the selection of the pharmacy or pharmacist dispensing and filling prescriptions for medicines required under this chapter. It is expressly forbidden for the department, an employer, or a carrier, or any agent or representative of the department, an employer, or a carrier, to select the pharmacy or pharmacist which the sick or injured employee must use; condition coverage or payment on the basis of the pharmacy or pharmacist utilized; or to otherwise interfere in the selection by the sick or injured employee of a pharmacy or pharmacist.

Further, it is noted that Chapter 440, Florida Statutes, as well as the Florida Workers' Compensation, Health Care Provider Reimbursement Manual, 2016 Edition, explicitly recognize the dispensing of medicinal drugs by a licensed dispensing practitioner to injured employees and provide a methodology for determining the appropriate reimbursement to such dispensing practitioners. *See Manual*, at p. 36 ("The dispensing of medicinal drugs will be limited to a pharmacist or a licensed dispensing practitioner and billed under the NDC number."); § 440.13(12)(c), Fla. Stat. ("As to reimbursement for a prescription medication, the reimbursement amount for a prescription shall be the average wholesale price plus \$4.18 for the dispensing fee. For repackaged or relabeled prescription

medications dispensed by a dispensing practitioner as provided in s. 465.0276, the fee schedule for reimbursement shall be 112.5 percent of the average wholesale price, plus \$8.00 for the dispensing fee.”).

Prescriptions for compensable medication, written and dispensed by the carrier’s authorized treating physician, shall be reimbursed, if the authorized treating physician is a practitioner registered to dispense under s. 465.0276, F.S., and the injured worker chooses to have its prescription dispensed and filled by the authorized treating physician. Reimbursement will be in accordance with the Health Care Provider Reimbursement Manual 2016 edition and s. 440.13(12)(c), F.S. Thus, failure to authorize and/or reimburse for prescription medication solely because the medication is or will be dispensed by a licensed Florida dispensing practitioner instead of a pharmacist, interferes with the full, free and absolute choice of the sick or injured employee and, therefore, is contrary to law.

Questions regarding this may be directed to Brittany O’Neil at Brittany.ONeil@myfloridacfo.com.

RESCINDED