

AMENDED IN SENATE AUGUST 20, 2010

AMENDED IN SENATE AUGUST 11, 2010

AMENDED IN SENATE JULY 15, 2010

AMENDED IN SENATE JUNE 22, 2010

AMENDED IN ASSEMBLY APRIL 8, 2010

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 2779

Introduced by Assembly Member Solorio

March 3, 2010

An act to add Section 5307.13 to the Labor Code, relating to workers' compensation, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 2779, as amended, Solorio. Workers' compensation: ~~compound medication~~; *compounded drugs*.

Existing law establishes a workers' compensation system, administered by the Administrative Director of the Division of Workers' Compensation, to compensate an employee for injuries sustained in the course of his or her employment. ~~Existing law requires the administrative director, after public hearings, to adopt and revise periodically an official medical fee schedule that shall establish reasonable maximum fees paid for medical services, drugs and pharmacy services, health care facility fees, home health care, and all other treatment, care, services, and goods, other than physician services.~~

This bill would provide that, until the administrative director adopts a fee schedule governing compound medication, a compound medication shall be reimbursable only if there is prior authorization for it as medically necessary, as specified. The bill would authorize the administrative director to adopt regulations as necessary or convenient to implement the above-described provisions.

This bill would provide that under workers' compensation law, a compounded drug, as defined, dispensed on or after November 1, 2010, shall be reimbursable only if certain conditions, including the condition that all active ingredients in the compounded drug are ingredients in drug products that have been approved by the federal Food and Drug Administration and all other ingredients are listed by the United States Pharmacopeia, are satisfied.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: 2/3. Appropriation: no. Fiscal committee: *yes-no*. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 5307.13 is added to the Labor Code, to
2 read:

3 ~~5307.13. (a) Until the administrative director adopts a fee~~
4 ~~schedule consistent with the requirements of this section governing~~
5 ~~compound medication, a compound medication shall be~~
6 ~~reimbursable only if there is prior authorization for it as medically~~
7 ~~necessary pursuant to Section 4610 and the compound medication~~
8 ~~meets all of the following requirements:~~

9 ~~(1) All active ingredients in the compound medication are~~
10 ~~ingredients in drug products that have been approved by the federal~~
11 ~~Food and Drug Administration (FDA) or listed by the United States~~
12 ~~Pharmacopeia:~~

13 *5307.13. (a) A compounded drug shall be reimbursable only*
14 *if all of the following conditions are satisfied:*

15 *(1) Before the compounded drug is dispensed, both of the*
16 *following conditions are satisfied:*

17 *(A) The physician's request for authorization for the*
18 *compounded drug has been submitted to the insurer or, if there is*
19 *no insurer, to the employer, for prospective utilization review.*

1 (B) *The physician's request for authorization expressly identifies*
2 *the recommended drug as a compounded drug.*

3 (2) *All active ingredients in the compounded drug are*
4 *ingredients in drug products that have been approved by the federal*
5 *Food and Drug Administration (FDA) and all other ingredients*
6 *are listed by the United States Pharmacopeia.*

7 ~~(2)~~

8 (3) ~~The compound medication compounded drug is not a copy~~
9 ~~or substitute for of an available FDA-approved product.~~

10 ~~(3)~~

11 (4) ~~FDA-approved alternatives to the compound medication~~
12 ~~compounded drug have been tried with documented therapeutic~~
13 ~~failure or patient intolerance.~~

14 (b) *If the insurer or employer has denied a request for*
15 *authorization for a compounded drug for the same employee for*
16 *the same injury pursuant to Section 4610, and if the denial has*
17 *not been overturned and there has not been a documented material*
18 *change in the employee's medical condition, subdivision (e) of*
19 *Section 4610 shall not apply to utilization review of a subsequent*
20 *request for authorization for the same or substantially identical*
21 *compounded drug.*

22 ~~(b)~~

23 (c) ~~The maximum allowance for the compound medication~~
24 ~~compounded drug shall not exceed the sum of the amounts that~~
25 ~~would be allowed for the ingredient costs and dispensing fee and~~
26 ~~compounding fees allowed under regulations adopted pursuant to~~
27 ~~Section 5307.1. No reimbursement shall be allowed for any~~
28 ~~ingredient that does not have a valid National Drug Code (NDC)~~
29 ~~and a corresponding unit price in the Medi-Cal database.~~

30 ~~(c)~~

31 (d) ~~No fee shall be allowed for any compound medication~~
32 ~~compounded drug unless the billing for that compound medication~~
33 ~~compounded drug includes all information necessary for calculation~~
34 ~~of the fee pursuant to this section subdivision (c).~~

35 ~~(d)~~

36 (e) ~~Nothing in this section shall be interpreted to authorize a~~
37 ~~nonphysician to reject, as medically unnecessary, an otherwise~~
38 ~~valid unsolicited prescription for a compounded medication. To~~
39 ~~the extent applicable, Section 4610 shall apply to requests for~~
40 ~~authorization required under this section: drug.~~

1 (e)

2 (f) The administrative director may adopt regulations—as
3 ~~necessary or convenient~~ to implement this section.

4 (g) *This section shall apply to any compounded drug dispensed*
5 *on or after November 1, 2010.*

6 (h) *For purposes of this section, “compounded drug” shall have*
7 *the meaning specified in regulations adopted by the California*
8 *State Board of Pharmacy.*

9 SEC. 2. This act is an urgency statute necessary for the
10 immediate preservation of the public peace, health, or safety within
11 the meaning of Article IV of the Constitution and shall go into
12 immediate effect. The facts constituting the necessity are:

13 Abusive billing practices for compounded drugs unreasonably
14 inflate the cost of workers’ compensation coverage for employers
15 and insurers, and leave fewer dollars available for injured workers
16 to receive in benefits. In order to stop these abusive practices at
17 the earliest possible time, it is necessary for this act to take effect
18 immediately.

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