

Client Advisory

Proposed Action Plan to Comply with California Formulary Mandates



This Client Advisory provides important information for Gallagher Bassett clients with workers' compensation exposure in California. Recent regulations proposed by California's Department of Industrial Relations' Division of Workers' Compensation (DWC) mandate adoption of an evidence-based drug formulary that will impact prescriptions beginning January 1, 2018. While final language is expected later this month, we wanted to provide you with an overview of the new regulations and proposed actions to help you maintain compliance.

WHAT CLAIMS DOES THE DRUG FORMULARY APPLY TO AND WHEN DOES IT TAKE EFFECT?

The new drug formulary requirements are applicable to all workers' compensation injuries and prescriptions written in connection with them.

Timing. Valid Requests for Authorization (RFA) that identify on-formulary drugs are required for all claims.

- For claims arising and prescriptions written prior to January 1, 2018, physicians must submit a new Request for Authorization (RFA) by April 1, 2018 with a treatment plan that transitions patients to drugs listed on the formulary.
- For injuries and claims post January 1, 2018, that require a prescription, RFAs are also required and expected to identify drugs that are compliant with the drug formulary. If they do not, they will be subject to Utilization Review.

Classification. The Medical Treatment Utilization Schedule (MTUS) classifies drugs as 'exempt' (meaning, they are listed on the formulary) or 'non-exempt' (not listed).

- RFAs with 'Exempt' drug designations do NOT require Utilization Review (UR), unless there is a dispute on the body part or other compensability determinations.
- RFAs with 'Non-Exempt' or unlisted drug designations will require UR.
- In addition, prospective UR is required for physician issuance of compound drugs and physician dispensed drugs.

WHY DID CALIFORNIA ADOPT A DRUG FORMULARY?

California adopted the formulary to expedite and standardize the use of medically necessary drugs which will make both care and costs more predictable. Currently, the price of prescription drugs is a significant portion of WC claim costs, and over 40% of Independent Medical Review (IMR) requests center on disputed prescriptions, dwarfing all other categories. These disputes delay treatment for injured workers, and are time consuming and expensive for risk managers, providers and payers.ⁱⁱ

Further, there is wide variability in prescribing behavior, and that variability increases costs. The California Workers' Compensation Institute (CWCI) estimates that 73% of all prescriptions written for CA workers' compensation claimants are for non-exempt drugs (which are typically more expensive) and they make up 78% of the total annual drug spend.ⁱⁱⁱ The Rand Corporation estimates that after the drug formulary is effective, prescription drug spend will decrease by 10.4%.^{iv}

HOW WILL GB HELP CLIENT ORGANIZATIONS COMPLY WITH THE FORMULARY REGULATIONS?

Because prescriptions written before January 1, 2018 need to be brought into compliance, it is helpful to think of transition activities that need to take place for open claims, as well as new procedures that will be in effect for claims arising after January 1, 2018.

Bringing Open Claims into Compliance. Between now and January 1, 2018, GB is contacting California physicians to guide them toward issuing new RFAs on claims with non-exempt drugs. GB is also partnering with Prium to provide services to transition claims with non-exempt or unlisted medications. Clients can opt-in to these services to ensure that their employees' prescriptions are successfully transitioned and no interruption occurs.

We strongly encourage clients to take advantage of Prium's expertise beginning this month. Although there will be a fee for this service, we believe that in the long run this is the most cost effective way to avoid the time and expense of Utilization Reviews (UR) for non-compliant prescriptions, or the complexity of independently transitioning prescriptions to the drug formulary. Your account manager will be contacting you to discuss the new regulations, answer any questions, and work with GB Pharmacy to support the transitions of claims if you elect to use Prium.

GB's proactive approach is designed to allow appropriate time to wean injured workers to become compliant with the formulary and address potential addiction issues with minimal disruption for the injured worker. The Prium process includes:

- Identifying existing claims with non-exempt or unlisted medications.
- Contacting treating physicians and requesting they submit a plan that provides "a safe weaning, tapering, or transitioning of worker to a drug pursuant to the MTUS."
- Developing a California Drug Formulary Review (CDFR) to accompany the secured written agreement from the physician, thus assuring compliance to the new treatment plan.

Once prescriptions for open claims are successfully transitioned, GB and Prium will continue medical oversight services to ensure physician adherence to the agreed treatment changes.

New Claims and Prescriptions Arising after January 1, 2018. For new claims with prescriptions for non-exempt and unlisted prescriptions, GB pharmacy benefit managers (PBM) will use drug blocks to make sure these prescriptions are not filled and send alerts to the Resolution Managers to facilitate compliance with drug formulary regulations.

GB Utilization Review processes will comply with California treatment guidelines and statutory timeline requirements and implement prospective reviews as required for compound and physician-dispensed drugs, opioids/narcotics, branded drugs where there are generic equivalents, and Naloxone.

ADDITIONAL INFORMATION

For additional information pertaining to the California MTUS Drug Formulary, please access this GB microsite: <https://www.gallagherbassett.com/gbmcsmpn/CAformulary>

For additional questions regarding Gallagher Bassett programs and services, please contact your Account Manager.

i The Medical Treatment Utilization Schedule (MTUS) drug formulary will be implemented per Assembly Bill 1124 (Statutes 2015, Chapter 525).

ii California Senate Committee on Labor and Industrial Relations.

iii Swedlow, A. and Hayes, S. "California's Proposed Workers' Compensation Formulary Part 1.

iv Rand Corporation – Modeling the Economic Impact of a California Worker's Compensation Formulary.