

# Workers' Comp Legislative Activity

January 15, 2019 – March 1, 2019

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## ILLINOIS

### HB 2792 – Workers Comp-Fee Schedule

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

**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 has been referred to the House Rules Committee, chaired by Representative Gregory Harris (D). This measure waits for further committee consideration. A timeline will be established at the discretion of the Chair.

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

**Status History:** 2019-02-14 - Introduced; Referred to House Rules Committee

## MONTANA

### SB 83 - Relating to establishing allowable and prohibited practices for pharmacy benefit managers.

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

**Summary for 1/8/19 Version:** A measure relating to pharmacy benefit manager or third-party payer fees, co-payment limitations, and prohibitions for pharmacists and pharmacies.

This measure dictates that a pharmacy benefit manager or third-party payer may not directly or indirectly charge or hold a pharmacy responsible for a fee related to a claim:

- (a) if the fee is not apparent at the time the claim is processed;
- (b) if the fee is not reported on the remittance advice of an adjudicated claim;
- (c) after the initial claim is adjudicated; or

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- (d) if the pharmacy and pharmacy benefit manager or third-party payer did not clearly agree to the fee in a writing signed between the pharmacy benefit manager or third-party payer and the pharmacy or an entity representing the pharmacy.

This measure also dictates that a pharmacy benefit manager or third-party payer may collect a performance-based fee from a pharmacy only if the pharmacy fails to meet the criteria established by a pharmacy performance measurement entity. The fee may be applied only to the professional dispensing fee outlined in the contract with the pharmacy and may not be imposed on the cost of goods sold by a pharmacy. For this purpose, only criteria established by a pharmacy performance measurement entity may be used to measure a pharmacy's performance.

This measure places limitations on co-payments, enforcing that a pharmacy benefit manager or third-party payer may not charge a patient a copayment that exceeds the cost of the prescription drug. This measure also outlines what a pharmacy benefit managers or third-party payer may not that may not prohibit a pharmacist or pharmacy from doing.

**Outlook:** This measure was heard on February 7 in the House Business and Labor Committee, where Representative Noland (R) serves as Chair. No action was taken on this measure. This measure awaits further consideration before the Committee.

**Links:** [01/08/2019 Version](#)

**Status History:**

- **2019-01-08** - Introduced; Referred to Senate Committee Business, Labor, and Economic Affairs
- **2019-01-16** - Hearing held
- **2019-01-22** - Passed Committee
- **2019-01-28** - Passed Senate
- **2019-01-30** - Referred to House Business and Labor Committee
- **2019-02-07** - Hearing held

**NEBRASKA**

**LB 487 - Require the Nebraska Workers' Compensation Court to adopt an evidence-based drug formulary**

**Issues:** Workers' Compensation (General), Workers' Compensation (Prescription Drug Formulary), Workers' Compensation (General), 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 will be heard on March 4 in the Business and Labor Committee. The hearing will be open to the public and testimony will be accepted at the discretion of the Chair, Senator Matt Hansen (D). A vote is unlikely but remains at the discretion of the Chair.

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

**Status History:**

- **2019-01-22** - Introduced
- **2019-01-24** - Referred to Business and Labor Committee
- **2019-03-04** - Hearing scheduled