

JAN 19 2018

A BILL FOR AN ACT

RELATING TO WORKERS' COMPENSATION PRESCRIPTION DRUG
REIMBURSEMENT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that Act 231, Session
2 Laws of Hawaii 2014 (Act 231), enacted a new statutory section
3 with the purpose of curtailing alarming cost increases of
4 prescription drugs and compounds in the workers' compensation
5 system. Since the enactment of Act 231, further analysis of
6 other states shows the reimbursement rates range widely among
7 the thirty-seven states that reimburse prescription drugs on the
8 basis of a percentage of average wholesale price. Notably,
9 Hawaii has the highest reimbursement rate for brand name and
10 generic drugs at forty per cent over average wholesale price.

11 The legislature further finds that the national average
12 reimbursement rate is three per cent below average wholesale
13 price, plus a \$4.32 dispensing fee, for brand name drugs, and
14 four per cent below average wholesale price, plus a \$4.94
15 dispensing fee, for generic drugs. More specifically,
16 California reimburses at a rate of seventeen per cent below



1 average wholesale price with a \$7.25 dispensing fee for both
2 brand name and generic drugs. Oregon reimburses at 16.5 per
3 cent below average wholesale price with a \$2 dispensing fee for
4 both brand name and generic drugs. These two states are
5 considered progressive workers' compensation states and have
6 worked on their systems extensively. Louisiana has the next
7 highest rate of reimbursement at ten per cent over average
8 wholesale price with a \$10.51 dispensing fee for brand name
9 drugs.

10 The purpose of this Act is to bring Hawaii closer to the
11 rest of the nation in terms of its dispensing policies and
12 reimbursement rates for prescription drugs in the workers'
13 compensation system.

14 SECTION 2. Section 386-21.7, Hawaii Revised Statutes, is
15 amended as follows:

16 1. By amending the title to read:

17 "[+]§386-21.7[+] Prescription drugs; pharmaceuticals."

18 2. By amending subsections (a), (b), (c), and (d) to
19 read:

20 "(a) Notwithstanding any other provision to the contrary,
21 immediately after a work injury is sustained by an employee and



1 so long as reasonably needed, the employer shall furnish to the
2 employee all prescription drugs as the nature of the injury
3 requires[-], except that physician-dispensed prescription drugs
4 shall only be provided during the first thirty days from the
5 date of injury. The liability for the prescription drugs shall
6 be subject to the deductible under section 386-100.

7 (b) Payment for all forms of prescription drugs including
8 repackaged and relabeled drugs shall be one hundred [~~forty~~] one
9 per cent of the average wholesale price set by the original
10 manufacturer of the dispensed prescription drug as identified by
11 its National Drug Code and as published in the Red Book:
12 Pharmacy's Fundamental Reference as of the date of dispensing,
13 except where the employer or carrier, or any entity acting on
14 behalf of the employer or carrier, directly contracts with the
15 provider or the provider's assignee for a lower amount.

16 (c) Payment for compounded prescription drugs shall be the
17 sum of one hundred [~~forty~~] one per cent of the average wholesale
18 price by gram weight of each underlying prescription drug
19 contained in the compounded prescription drug. For compounded
20 prescription drugs, the average wholesale price shall be that
21 set by the original manufacturer of the underlying prescription



1 drug as identified by its National Drug Code and as published in
2 the Red Book: Pharmacy's Fundamental Reference as of the date
3 of compounding, except where the employer or carrier, or any
4 entity acting on behalf of the employer or carrier, directly
5 contracts with the provider or provider's assignee for a lower
6 amount.

7 (d) All pharmaceutical claims submitted for repackaged,
8 relabeled, or compounded prescription drugs shall include the
9 National Drug Code of the original manufacturer. If the
10 original manufacturer of the underlying drug product used in
11 repackaged, relabeled, or compounded prescription drugs is not
12 provided or is unknown, then reimbursement shall be one hundred
13 [~~forty~~] one per cent of the average wholesale price for the
14 original manufacturer's National Drug Code number as listed in
15 the Red Book: Pharmacy's Fundamental Reference of the
16 prescription drug that is most closely related to the underlying
17 drug product."

18 SECTION 3. Statutory material to be repealed is bracketed
19 and stricken. New statutory material is underscored.



1 SECTION 4. This Act shall take effect on July 1, 2018.

2

INTRODUCED BY: _____

Jim

Assembly & Bob

4-16-18 8:10

Mike Hatfield

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S.B. NO. 2358

Report Title:

Workers' Compensation; Prescription Drugs; Reimbursement

Description:

Limits physician-dispensed prescription drugs in workers' compensation claims to the first 30 days from the work injury date. Lowers the reimbursement rates of prescription drugs in workers' compensation claims.

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