



December 16, 2010

Texas Closed Formulary Update

On December 8, 2010, the Texas Division of Workers' Compensation (TDWC) published notification of intent to adopt formal rules related to the closed formulary. Publication of their intent in the *Texas Register* serves as the final step in formal adoption and implementation.

Overview

The notice consisted of an executive summary providing highlights of formally adopted closed formulary rules. The TDWC closed formulary includes/allows all available FDA drugs, excluding drugs with "N" status identified in the Official Disability Guidelines (ODG) Drug Appendix A. It appears TDWC may have made minor material changes in the final rules in comparison with the proposed August version; however, initial implementation of the requirements has been postponed for *new claims* until September 1, 2011, and *legacy claims* until September 1, 2013.

New Claim Requirements

As of September 1, 2011, the following provisions of closed formulary rules apply to new claims (claims with a Date of Injury (DOI) on or after September 1, 2011):

- Preauthorization (prospective Utilization Review [UR] as defined by TAC §134.600[a][8]) is required for "N" drugs
- All drugs prescribed and dispensed without preauthorization are subject to retrospective review of medical necessity and reasonableness
- "N" drugs with completed preauthorization are not subject to retrospective review of medical necessity and reasonableness (TAC §134.600)
- "N" drugs prescribed and dispensed without preauthorization for the initial pharmaceutical coverage period (seven days from DOI) are subject to retrospective review of medical necessity
- All drugs prescribed for new claims must be in accordance with TDWC treatments guidelines

Legacy Claim Requirements

As of September 1, 2013, the following provisions of the closed formulary rule apply to legacy claims (claims with a DOI prior to September 1, 2011):

- Carriers and prescribing doctors may discuss transition of legacy claims prior to September 1, 2013, but cannot force injured workers to comply prior to this date
- Carriers shall identify all legacy claims prior to March 1, 2013 and provide specific notification to prescribing doctor(s) and injured worker(s)
- Doctors must maintain a "Statement of Medical Necessity" for all "N" drugs prescribed on or after September 1, 2011, and prior to September 1, 2013
- All drugs prescribed for legacy claims shall be in accordance with TDWC treatment guidelines
- All closed formulary provisions (above) apply to legacy claims on or after September 1, 2013



Government Affairs Alert



TDWC is expected to release full final adopted rules along with clarifying responses to questions and comments on December 17, 2010. Upon release, PMSI will work together with our industry-leading partners to determine the impact of the final rules, which may include changes and additional requirements. We will then proceed with joint efforts to achieve full compliance by the initial deadline.

As your partner, PMSI remains committed to providing solutions for compliance with the closed formulary rules and will continue to help you understand the requirements through regular communications. Following full release of the adopted final rules, we will provide clients with a thorough impact analysis and explanation of our compliance strategy.

If you have any questions regarding this alert or any other government-related topic, please contact your dedicated Account Manager. You may also contact our Director of Government Affairs, Kevin Tribout at Kevin.Tribout@pmsionline.com or 813.627.2445.

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