

HOUSE BILL REPORT

EHB 2105

As Passed House:

March 14, 2007

Title: An act relating to payment of prescription drugs for industrial insurance medical aid claims.

Brief Description: Requiring payment of prescription drugs for industrial insurance medical aid claims for initial visits.

Sponsors: By Representatives Conway, Condotta, Kenney, Simpson and Ormsby.

Brief History:

Committee Activity:

Commerce & Labor: 2/15/07, 2/26/07 [DP].

Floor Activity:

Passed House: 3/14/07, 96-0.

Brief Summary of Engrossed Bill

- Requires the Department of Labor and Industries, for state fund claims, to pay for initial prescription costs related to an initial medical visit for any alleged injury for which a worker files a workers' compensation claim regardless of whether the claim is allowed.

HOUSE COMMITTEE ON COMMERCE & LABOR

Majority Report: Do pass. Signed by 7 members: Representatives Conway, Chair; Wood, Vice Chair; Condotta, Ranking Minority Member; Chandler, Assistant Ranking Minority Member; Green, Moeller and Williams.

Staff: Sarah Beznoska (786-7109).

Background:

Industrial insurance is a no-fault state workers' compensation program that provides medical and partial wage replacement benefits to covered workers who are injured on the job or who

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develop an occupational disease. Employers must insure with the state fund administered by the Department of Labor and Industries (Department) or, if qualified, may self-insure.

Under the Industrial Insurance Act, a worker injured in the course of employment may be entitled to proper and necessary medical and surgical services from a physician of his or her choice. All fees and medical charges must comply with a fee schedule established by the Department and must be paid within 60 days of receipt by the Department or self-insured employer of a proper billing, or 60 days after the claim is allowed by final order or judgment, if an otherwise proper billing is received by the Department or self-insured employer prior to final adjudication of claim allowance.

Under Department policy, the initial prescription costs associated with a potential claim are not paid until a decision is made to allow or reject the claim. In addition, if a claim is initially allowed, but later rejected, overpayments may be assessed for the cost of treatment and benefits, including any related prescription costs.

Summary of Engrossed Bill:

For state fund claims, the Department of Labor and Industries (Department) must pay for any initial prescription drugs provided in an initial medical visit for any injury for which a worker files a claim. Payment must be made without regard to whether the worker's claim for benefits is ultimately allowed. Payments must be made in accordance with the Department's fee schedule.

By December 1, 2009, the Department must report to the Legislature on implementation.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect January 1, 2008.

Staff Summary of Public Testimony:

(In support) It is an increasing hassle for pharmacies to take workers' compensation claims. If a worker gets injured on the job and goes to the doctor to get a prescription, the worker then goes to a pharmacy to get the prescription filled. The pharmacist can fill it and file it as a Department of Labor and Industries (Department) claim. If the claim ultimately gets rejected, the Department may need to come back and recoup amounts. This bill guarantees a first fill of the initial prescription before the claim gets in the process. This removes risk to pharmacies and would provide incentive for pharmacies to fill workers' compensation prescriptions.

Larger retail pharmacies are seeing more workers' compensation claims in the pharmacies because independent pharmacies are stepping away due to the risk involved in filling these

prescriptions. This is creating a financial impact to large retail pharmacies. This bill would allow pharmacists not to think about the issue when an injured worker comes in with a first prescription. We are aware that the Department has some concerns and are working with them on the bill.

(Neutral with concerns) There are concerns with this bill. The bill appears to only apply to workers covered by the state fund and not workers covered by self-insured employers. This should be equaled out. The bill would require the Department to pay for prescriptions unrelated to a workplace injury if a claim is rejected. Workers and employers paying into the medical aid fund would be bearing costs not associated with workplace injuries. The bill creates a possibility of increased moral hazard by creating a possibility of misuse of the workers' compensation program. Inappropriate use of prescription drugs is an area of major concern for the Department.

The Department has tried to address the issue of pharmacies not being paid on first claims. In April 2007, the Department will implement a higher dispensing fee on first fills for allowed claims. This adds incentive which is meant to offset losses with claims that are ultimately rejected. This is a more cost-effective alternative than the solution proposed by this bill.

(Opposed) None.

Persons Testifying: (In support) Dedi Hitchens, Washington State Pharmacists Association; and Holly Chisa, Northwest Grocery Association.

(Neutral with concerns) Roy Plaeger-Brockway, Department of Labor and Industries.

Persons Signed In To Testify But Not Testifying: None.