HLS 17RS-886 ORIGINAL

2017 Regular Session

1

HOUSE BILL NO. 529

BY REPRESENTATIVE BROADWATER

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

WORKERS COMPENSATION: Provides for a workers' compensation closed pharmacy formulary

AN ACT

2	To amend and reenact R.S. 23:1203.1(B), (D)(introductory paragraph), (H), (I), (J)(1), (L),
3	and (M), relative to workers' compensation; to provide for the creation of a closed
4	pharmacy formulary; to provide for the criteria for the creation and content of the
5	formulary; to provide for variances; and to provide for related matters.
6	Be it enacted by the Legislature of Louisiana:
7	Section 1. R.S. 23:1203.1(B), (D)(introductory paragraph), (H), (I), (J)(1), (L), and
8	(M) hereby amended and reenacted to read as follows:
9	§1203.1. Definitions; medical treatment schedule; medical advisory council; closed
10	pharmacy formulary
11	* * *
12	B. The director shall, through the office of workers' compensation
13	administration, promulgate rules in accordance with the Administrative Procedure
14	Act, R.S. 49:950 et seq., to establish a medical treatment schedule and a closed
15	pharmacy formulary within the medical treatment guidelines.
16	(1) Such rules shall be promulgated.
17	(2) (1) The medical treatment schedule and the closed pharmacy formulary
18	within the medical treatment guidelines shall meet the criteria established in this
19	Section and shall be organized in an interdisciplinary manner by particular regions
20	of the body and organ systems.

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1	(2)(a) The director shall promulgate rules necessary to implement the closed
2	pharmacy formulary, which shall be promulgated and placed within the medical
3	treatment guidelines. The rules shall be promulgated and the formulary shall be
4	adopted by July 1, 2018.
5	(b) The closed pharmacy formulary shall include rules to address legacy
6	claims to ensure the safe transition of patients from any ongoing use of opioid drugs.
7	(c) Prior to the adoption of the closed pharmacy formulary, the director shall
8	engage with employers, insurers, private sector employee representatives, public
9	sector employee representatives, treating physicians actively practicing medicine,
10	pharmacists, pharmacy benefit managers, attorneys who represent applicants, injured
11	workers, and any other stakeholder the director deems appropriate to facilitate the
12	development of the formulary.
13	* * *
14	D. The medical treatment schedule and the closed pharmacy formulary shall
15	be based on guidelines which shall meet all of the following criteria:
16	* * *
17	H.(1) The director, with the assistance of the medical advisory council, is
18	authorized to review and update the medical treatment schedule no less often than
19	once every two years. Such updates shall be made by rules promulgated in
20	accordance with the Administrative Procedure Act, R.S. 49:950 et seq. In no event
21	shall the schedule contain multiple guidelines covering the same aspects of the same
22	medical condition which are simultaneously in force.
23	(2) The medical advisory council may recommend to the director that the
24	formulary be updated or revised upon a showing by the medical advisory council of
25	high ranking scientific medical evidence. The director may, upon that
26	recommendation, promulgate any rules necessary for an update.
27	I. After the promulgation of the medical treatment schedule and the closed
28	pharmacy formulary, throughout this Chapter, and notwithstanding any provision of
29	law to the contrary, medical care, services, and treatment due, pursuant to R.S.

23:1203 et seq., by the employer to the employee shall mean care, services, and treatment in accordance with the medical treatment schedule <u>and the closed pharmacy formulary</u>. Medical care, services, and treatment that varies from the promulgated medical treatment schedule <u>or the closed pharmacy formulary</u> shall also be due by the employer when it is demonstrated to the medical director of the office by a preponderance of the scientific medical evidence, that a variance from the medical treatment schedule <u>or the closed pharmacy formulary</u> is reasonably required to cure or relieve the injured worker from the effects of the injury or occupational disease given the circumstances.

J.(1) After a medical provider has submitted to the payor the request for authorization and the information required by the Louisiana Administrative Code, Title 40, Chapter 27, the payor shall notify the medical provider of their action on the request within five business days of receipt of the request. If any dispute arises after January 1, 2011, as to whether the recommended care, services, or treatment is in accordance with the medical treatment schedule or the closed pharmacy formulary, or whether a variance from the medical treatment schedule or the closed pharmacy formulary is reasonably required as contemplated in Subsection I of this Section, any aggrieved party shall file, within fifteen calendar days, an appeal with the office of workers' compensation administration medical director or associate medical director on a form promulgated by the director. The medical director or associate medical director shall render a decision as soon as is practicable, but in no event, not more than thirty calendar days from the date of filing.

* * *

L. It is the intent of the legislature that, with the establishment and enforcement of the medical treatment schedule and the closed pharmacy formulary, medical and surgical treatment, hospital care, and other health care healthcare provider services shall be delivered in an efficient and timely manner to injured employees an injured worker.

1	M.(1) With regard to all treatment not covered by the medical treatment
2	schedule or the closed pharmacy formulary promulgated in accordance with this
3	Section, all medical care, services, and treatment shall be in accordance with
4	Subsection D of this Section.
5	(2) Notwithstanding any other provision of this Chapter, all treatment not
6	specified in the medical treatment schedule and not found in Subsection D of this
7	Section shall be due by the employer when it is demonstrated to the medical director,
8	in accordance with the principles of Subsection C of this Section, that a
9	preponderance of the scientific medical evidence supports approval of the treatment
10	that is not covered.
11	* * *

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 529 Original

2017 Regular Session

Broadwater

Abstract: Provides for the creation of a closed pharmacy formulary for the treatment of injured workers in workers' compensation claims.

<u>Proposed law</u> requires that rules shall be promulgated and the closed pharmacy formulary be adopted by July 1, 2018.

Present law created the medical treatment guidelines.

<u>Proposed law</u> retains <u>present law</u> and provides a procedure for the creation of a closed pharmacy formulary subject.

<u>Proposed law</u> requires that in the development of a pharmacy formulary, the director consult with workers' compensation stakeholders for specialized input.

<u>Proposed law</u> requires that in the promulgation of the closed pharmacy formulary, rules shall be promulgated to address legacy claims to ensure the same transition to patients using opiods.

<u>Present law</u> requires that the director update the medical treatment guidelines every two years.

<u>Proposed law</u> retains <u>present law</u> and provides that the pharmacy formulary may be updated if an update is recommended by the medical advisory council pursuant to high ranking medical evidence.

<u>Present law</u> provides that if the treatment needed by the injured worker is not sufficiently addressed by the medical treatment guidelines, that the employer may demonstrate by

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preponderance of the scientific medical evidence that a variance is necessary. <u>Proposed law</u> retains <u>present law</u> and adds to this exception, along with the medical treatment guidelines, that the pharmacy formulary will also be subject to a variance pursuant to the procedures in <u>present law</u>.

(Amends R.S. 23:1203.1(B), (D)(intro. para.), (H), (I), (J)(1), (L), and (M))