

S.B. NO. 983

JAN 25 2017

A BILL FOR AN ACT

RELATING TO WORKERS' COMPENSATION PRESCRIPTION DRUGS.

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

1 SECTION 1. Section 386-21.7, Hawaii Revised Statutes, is
2 amended to read as follows:

3 " ~~[+]~~ §386-21.7 ~~[+]~~ Prescription drugs; pharmaceuticals. (a)
4 Notwithstanding any other provision to the contrary, immediately
5 after a work injury is sustained by an employee and so long as
6 reasonably needed, the employer shall furnish to the employee
7 all prescription drugs as the nature of the injury
8 requires. The liability for the prescription drugs shall be
9 subject to the deductible under section 386-100.

10 b) Payment for all forms of prescription drugs including
11 repackaged and relabeled drugs shall be one hundred forty per
12 cent of the average wholesale price set by the original
13 manufacturer of the dispensed prescription drug as identified by
14 its National Drug Code and as published in the Red Book:
15 Pharmacy's Fundamental Reference as of the date of dispensing,
16 except where the employer or carrier, or any entity acting on

1 behalf of the employer or carrier, directly contracts with the
2 provider or the provider's assignee for a lower amount.

3 (c) Payment for compounded prescription drugs shall be the
4 sum of one hundred forty per cent of the average wholesale price
5 by gram weight of each underlying prescription drug contained in
6 the compounded prescription drug. For compounded prescription
7 drugs, the average wholesale price shall be that set by the
8 original manufacturer of the underlying prescription drug as
9 identified by its National Drug Code and as published in the Red
10 Book: Pharmacy's Fundamental Reference as of the date of
11 compounding, except where the employer or carrier, or any entity
12 acting on behalf of the employer or carrier, directly contracts
13 with the provider or provider's assignee for a lower amount. In
14 no instance shall the prescription supply be for more than
15 thirty days and payment shall not exceed \$1,000 in a thirty day
16 period.

17 (d) All pharmaceutical claims submitted for repackaged,
18 relabeled, or compounded prescription drugs shall include the
19 National Drug Code of the original manufacturer. If the
20 original manufacturer of the underlying drug product used in

1 repackaged, relabeled, or compounded prescription drugs is not
2 provided or is unknown, then reimbursement shall be one hundred
3 forty per cent of the average wholesale price for the original
4 manufacturer's National Drug Code number as listed in the Red
5 Book: Pharmacy's Fundamental Reference of the prescription drug
6 that is most closely related to the underlying drug product.

7 (e) Reimbursement for any drug under schedule II of
8 chapter 329, Uniform Controlled Substances Act, which is
9 dispensed directly by a physician to an injured employee shall
10 be limited to an initial thirty-day supply, commencing upon the
11 first visit with that physician.

12 [~~e~~] (f) Notwithstanding any other provision in this
13 section to the contrary, equivalent generic drug products shall
14 be substituted for brand name pharmaceuticals unless the
15 prescribing physician certifies that no substitution shall be
16 prescribed because the injured employee's condition does not
17 tolerate an equivalent generic drug product.

18 [~~f~~] (g) For purposes of this section, "equivalent
19 generic drug product" has the same meaning as provided in
20 section 328-91."

21 SECTION 2. Statutory material to be repealed is bracketed
22 and stricken. New statutory material is underscored.

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1 SECTION 3. This Act, upon its approval, shall take effect on
2 July 1, 2017.

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INTRODUCED BY: *MURPHY*

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BY REQUEST

Report Title:

Workers' Compensation; Prescription Drugs

Description:

Limits reimbursements for compounded prescription drugs to \$1,000 in a thirty-day period. Limits reimbursements for any schedule II drug under chapter 329, Uniform Controlled Substances Act, Hawaii Revised Statutes, dispensed by a physician to a one-time thirty-day supply upon the first visit.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

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JUSTIFICATION SHEET

DEPARTMENT: Labor and Industrial Relations

TITLE: A BILL FOR AN ACT RELATING TO WORKERS' COMPENSATION PRESCRIPTION DRUGS.

PURPOSE: Establish a reimbursement and supply amount for compounded prescription drugs. Limit reimbursement for compounded prescription drugs to \$1,000 per thirty-day period. Limit physician dispensing of drugs identified in schedule II of chapter 329, Uniform Controlled Substances Act, Hawaii Revised Statutes, to an initial thirty-day supply commencing upon the first visit. This proposal helps to ensure that compounded and schedule II drugs are prescribed based upon medical necessity and are justifiably reasonable and necessary. All prescribed drugs including schedule II drugs have a high potential for abuse which may lead to severe psychological or physical dependence.

MEANS: Amend section 386-21.7, HRS.

JUSTIFICATION: This proposal intends to address the challenge in the workers' compensation system with the use of high-priced, compounded prescription drugs by limiting the reimbursement and supply for compounded prescription drugs. DLIR believes that limiting the size of initial schedule II prescriptions by dispensing doctors will reduce abuse of addictive painkillers while still providing injured employees with the convenient and immediate relief needed.

Impact on the public: DLIR believes that the proposal, if enacted, will reduce requests for billing disputes. This will allow the department to resolve other workers' compensation matters and the ability to carry out the purposes of the workers' compensation law, which is to

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provide wage loss compensation and medical care to those employees who suffer a work-related injury while also protecting the employers' economic interests.

Impact on the department and other agencies:
The human resource agencies of the Executive Branch, the University of Hawaii, the Legislature and its agencies, the Department of Education, the Office of Hawaiian Affairs and the Counties may benefit by reducing their costs for medical care, services, supplies and prescription drugs. .

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM
DESIGNATION: LBR-183.

OTHER AFFECTED
AGENCIES: Department of Human Resources
Department of Education
Department of Hawaiian Home Lands
Office of Hawaiian Affairs
The University of Hawaii System
Hawaii State Judiciary
Hawaii State Legislature
Hawaii County
Kauai County
Maui County
Honolulu County

EFFECTIVE DATE: July 1, 2017.