

Workers' Comp Legislative Activity

August 15, 2019 – October 1, 2019

HAWAII

HB 1534 - Relating to Workers' Compensation

Issues: Workers' Compensation (Medical Marijuana)

Summary for 1/24/19 Version: This measure allows for medical cannabis reimbursement by workers' compensation. This measure allows for medical cannabis reimbursement by workers' compensation. This measure lays out reimbursement terms.

The measure stipulates that the maximum reimbursement for medical cannabis shall be determined by the method and amount set forth in the health care provider fee schedule. Medical cannabis must be reasonable and necessary medical treatment only where an authorized provider testifies that the benefits outweigh the health risks. At least one physician who certifies the worker for medical cannabis must be an authorized health care provider.

The measure stipulates that the worker should be reimbursed under the following circumstances: (i) out of pocket costs for medical cannabis (ii) worker shall submit an itemized receipt issued by the licensed provider (iii) the reimbursement shall be set by the fee schedule (iv) reimbursements will be made for pre-filled and sealed containers rather than paraphernalia (v) reimbursements will not be made for expenses related to personal production or cannabis from sources other than a licensed producer.

Outlook: This measure is eligible to be carried over to the 2020 Legislative Session. In Hawaii, the Legislature's rules allow for measures to be carried over from the first to the second regular session and to any extraordinary session of the same general assembly. The status of each bill and resolution will be the same at the beginning of each second session as it was immediately before adjournment of the previous regular or extraordinary session. The Hawaii Legislature is expected to convene for the 2020 Legislative Session January 15, 2020.

Links: [1/24/2019 Version](#)

Status History:

- **01/24/2019** - Introduced
- **01/28/2019** - Referred to House Labor, Public Employment & House Finance Committee
- **02/07/2019** - Hearing held; Deferred
- **03/07/2019** - Failed to meet crossover deadline
- **05/02/2019** - Carried over to 2020 session

Note: This information is neither intended to be all-inclusive for the industry, nor for public redistribution. Please feel free to send your questions, comments, suggestions, and requests for further information to Coventry at Regulatory@cvt.com.

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HAWAII

SB 1523 – Relating to Workers' Compensation

Issues: Special Request, Workers' Compensation (Medical Marijuana)

Summary for 1/24/19 Version: This measure allows for medical cannabis reimbursement by workers' compensation. This measure allows for medical cannabis reimbursement by workers' compensation. This measure lays out reimbursement terms.

Outlook: This measure is eligible to be carried over to the 2020 Legislative Session. In Hawaii, the Legislature's rules allow for measures to be carried over from the first to the second regular session and to any extraordinary session of the same general assembly. The status of each bill and resolution will be the same at the beginning of each second session as it was immediately before adjournment of the previous regular or extraordinary session. The Hawaii Legislature is expected to convene for the 2020 Legislative Session January 15, 2020.

Links: [1/24/2019 Version](#)

Status History:

- **01/24/2019** - Introduced
- **01/28/2019** - Referred to Senate Labor Culture, and the Arts Committee
- **02/06/2019** - Hearing held; Deferred by Committees
- **03/07/2019** - Failed to meet crossover deadline
- **05/02/2019** - Carried over to 2020 session

MONTANA

SB 83 - Relating to establishing allowable and prohibited practices for pharmacy benefit managers.

Issues: Workers' Compensation (Prescription Drug Formulary)

Summary for 3/8/2019 Version: A measure relating to pharmacy benefit manager or third-party payer fees, co-payment limitations, and prohibitions for pharmacists and pharmacies.

This measure dictates that a pharmacy benefit manager or third-party payer may not directly or indirectly charge or hold a pharmacy responsible for a fee related to a claim:

- (a) if the fee is not apparent at the time the claim is processed;
- (b) if the fee is not reported on the remittance advice of an adjudicated claim;
- (c) after the initial claim is adjudicated; or

This measure also dictates that a pharmacy benefit manager or third-party payer may collect a performance-based fee from a pharmacy only if the pharmacy fails to meet the criteria established by a pharmacy performance measurement entity. The fee may be applied only to the professional dispensing fee outlined in the contract with the pharmacy and may not be imposed on the cost of goods sold by a

pharmacy. For this purpose, only criteria established by a pharmacy performance measurement entity may be used to measure a pharmacy's performance.

This measure places limitations on co-payments, enforcing that a pharmacy benefit manager or third-party payer may not charge a patient a copayment that exceeds the cost of the prescription drug. This measure also outlines what a pharmacy benefit managers or third-party payer may not that may not prohibit a pharmacist or pharmacy from doing.

Outlook: This measure has been signed by Governor Steve Bullock (D). This measure is effective January 1, 2020.

Links:

- [3/8/2019 Final version](#)
- [01/08/2019 Version](#)

Status History:

- **01/08/2019** - Introduced; Referred to Senate Committee Business, Labor, and Economic Affairs
- **01/16/2019** - Hearing held
- **01/22/2019** - Passed Committee
- **01/28/2019** - Passed Senate
- **01/30/2019** - Referred to House Business and Labor Committee
- **02/07/2019** - Hearing held
- **02/15/2019** - Passed Committee
- **02/21/2019** - Passed House
- **02/26/2019** - Sent to Governor Steve Bullock (D)
- **03/08/2019** - Returned with Governor's proposed amendments
- **03/14/2019** - Senate adopts Governor's Amendments
- **03/18/2019** - House adopts Governor's amendments
- **03/20/2019** - Re-sent to Governor Steve Bullock (D)
- **03/21/2019** - Signed by Governor Steve Bullock (D)

MONTANA

SB 265 - Revises laws regarding Medical Marijuana.

Issues: Workers' Compensation (Medical Marijuana)

Summary for 5/3/2019 Version: This measure generally revises laws regarding Medical Marijuana. This measure temporarily increases the gross sales tax to 4%. This measure establishes requirements for issuance of registry ID cards and licenses. This measure establishes requirements for testing labs and establishes canopy tiers and licensing fees. This measure allows for the use of telemedicine for written certifications.

Outlook: This measure has been signed by Governor Steve Bullock (D). Except as provided, this measure is effective October 1, 2019. [Sections 30 and 31] are effective July 1, 2019. Sections 16 and 32 are effective January 1, 2020. Sections 4, 6, 7(1)(b), 9, 11, 13, 19, 25, and 29 are effective on the earlier of July 1, 2020, or the date that the department of public health and human services certifies to the Code Commissioner that the seed-to-sale tracking system is able to: (a) track a registered cardholder's purchases of marijuana and marijuana-infused products from any provider or marijuana-infused products provider, not just the provider that the cardholder has named in the cardholder's applications for a registry identification card; (b) alert all providers and marijuana-infused products providers that a registered cardholder has reached the maximum daily or monthly purchase limit; and (c) prevent additional sales to a cardholder who has reached the daily or monthly maximum purchase limit. Sections 2; 3; 5(4)(c), (5)(d), (6), (9)(c), and (9)(d); 8(1)(i) and (7)(b); 10(1)(a)(vi), (6)(d), (7), (9)(c), and (9)(d); 12; 20; 22; 23(8) through (10); 24(8); 28(1)(f); and 33 through 39] are effective immediately.

Links:

- [5/3/2019 Final Version](#)
- [2/14/2019 Version](#)

Status History:

- **11/14/2018** - Pre-filed
- **02/14/2019** - Introduced; Referred to Senate Taxation Committee
- **02/22/2019** - Hearing held
- **03/27/2019** - Amended; Passed Senate Taxation Committee
- **04/01/2019** - Passed Senate
- **04/02/2019** - Referred to House Taxation Committee
- **04/09/2019** - Hearing held
- **04/12/2019** - Amended; Passed House Taxation Committee
- **04/15/2019** - Hearing held; Passed House Appropriations Committee
- **04/16/2019** - Passed House
- **04/18/2019** - Senate concurred with House amendments
- **04/29/2019** - Sent to Governor
- **05/03/2019** - Signed by Governor Steve Bullock (D)

NEBRASKA

LB 316 - Adopt the Pharmacy Benefit Fairness and Transparency Act

Issues: Workers' Compensation (Pharmacy Fee Schedule)

Summary for 04/24/2019 Version: This measure prohibits a pharmacy benefit manager from subjecting a pharmacist or contracted pharmacy to penalties or removal from a network or plan for sharing information regarding the cost, price, or copayment of a prescription drug with a covered individual or a covered individual's caregiver. The measure also prohibits a pharmacy benefit manager from prohibiting or inhibiting a pharmacist or contracted pharmacy from discussing any such information or selling a more affordable alternative to a covered individual or a covered individual's caregiver.

The measure prohibits an insurer that covers prescription drugs from requiring a covered individual to make a payment for a prescription drug at the point of sale in an amount that exceeds the lesser of:

- i. the covered individual's copayment, deductible, or coinsurance for such prescription drug; or
- ii. the amount any individual would pay for such prescription drug if that individual paid in cash.

Outlook: This measure was signed by Governor Pete Ricketts (R) on April 24. This measure will become effective immediately.

Links:

- [4/24/2019 Final Version](#)
- [4/15/2019 Version](#)
- [4/10/2019 Kolterman AM1187 Amendment](#)
- [4/10/2019 Enrollment and Review ER59 Amendment](#)
- [3/25/2019 Adopted Amendment](#)
- [1/16/2019 Version](#)

Status History:

- **01/16/2019** - Introduced
- **01/18/2019** - Referred to the Senate Banking, Commerce and Insurance Committee
- **03/04/2019** - Hearing held
- **03/19/2019** - Placed on General File
- **03/25/2019** - Amended; advanced to Enrollment and Review Initial
- **03/27/2019** - Placed on Select File
- **04/10/2019** - Amended; advanced to Enrollment and Review for Engrossment
- **04/15/2019** - Placed on Final Reading
- **04/18/2019** - Passed Final Reading; sent to Governor Pete Ricketts (R)
- **04/24/2019** - Signed by Governor Pete Ricketts (R)

NEBRASKA

LB 487 - Require the Nebraska Workers' Compensation Court to adopt an evidence-based drug formulary

Issues: Workers' Compensation (Prescription Drug Formulary)

Summary for 1/22/2019 Version: This measure establishes a formulary for workers' compensation drugs. This measure permits the Nebraska Workers' Compensation Court to adopt an evidence-based drug formulary consisting of prescription drugs listed in Schedules II, III, IV and V. The formulary will apply to prescription drugs that are prescribed and dispensed for outpatient use in connection with workers' compensation claims with a date of injury on or after January 1, 2018.

A prescription drug included in the formulary adopted by the compensation court and recommended may be prescribed and dispensed without obtaining prior authorization from the workers' compensation insurer, risk management pool or self-insured employer.

A prescription drug not included in the formulary adopted by the compensation court or that is included but not recommended is presumed to be reasonable if prior authorization for such drugs is obtained from the workers' compensation insurer, risk management pool or self-insured employer.

The measure requires the compensation court to consult with stakeholders regarding the adoption of a drug formulary. The stakeholders should include employers, insurers, private sector employee representatives, public sector employee representatives, treating physicians actively practicing medicine, pharmacists, and attorneys representing injured workers or employers.

Any party may request a finding by an independent medical examiner if the workers' compensation insurer, risk management pool or self-insured employer denies payment for a prescription drug that is not included in the formulary adopted by the compensation court or that is included but not recommended in such formulary or if prior authorization is denied.

The compensation court may adopt and promulgate rules and regulations necessary to implement this provision.

Outlook: This measure is eligible to be carried over to the 2020 Legislative Session. In Nebraska, all bills on which no final action has been taken by the time of adjournment of the regular session in odd-numbered years shall be held over for consideration at the regular session convening in even-numbered years.

Links: [1/22/2019 Version](#)

Status History:

- **01/22/2019** - Introduced
- **01/24/2019** - Referred to Business and Labor Committee
- **03/04/2019** - Hearing held
- **05/31/2019** - Carried over to 2020 Legislative Session

NEW JERSEY

AB 4097 - Provides for workers' compensation reimbursement for medical marijuana.

Issues: Workers' Compensation (Medical Marijuana)

Summary for 6/4/2018: This measure relates to reimbursement for costs associated with the medical use of marijuana. This measure provides that nothing in current law precludes any employer or workers' compensation insurer from reimbursing a person for costs associated with the medical use of marijuana.

Outlook: This measure has been referred to the Assembly Labor Committee, chaired by Assembly member Joseph Egan (D). The sponsor does not serve on the committee of referral. This measure awaits a hearing. The hearing, if scheduled, will be open to the public, testimony will be accepted and a vote may occur at the discretion of the Chair.

Links: [06/04/2018 Version](#)

Status History: 06/04/2018 - Introduced; referred to Assembly Labor Committee

NEW YORK

AB 864 - Relates to prescription prices and pharmacies for injured employees


Issues: Workers' Compensation (Direction of Care)

Summary for 1/11/2019 Version: This measure allows a workers' compensation claimant to utilize a pharmacy of their choice. This measure prohibits an employer or carrier from refusing to allow a claimant to utilize a pharmacy of their choice to furnish prescribed medications required by the claimant so long as the pharmacy's charges are below the pharmaceutical fee schedule.

Outlook: The New York State Legislature recessed on June 20, 2019. The Assembly may reconvene at the discretion of the Speaker, Carl E. Heastie (D). At that time, this measure will be eligible for consideration as it currently stands.

Links: [1/11/2019 Version](#)

Status History: 01/11/2019 - Introduced; referred to Assembly Labor Committee



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