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LEGISLATIVE ACTION

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| Senate | . | House |
| Comm: FAV | . | |
| 02/23/2012 | . | |
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The Committee on Health Regulation (Garcia) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause and insert:

Section 1. Paragraph (a) of subsection (3) and paragraph (c) of subsection (12) of section 440.13, Florida Statutes, are amended, paragraph (k) is added to subsection (3), paragraphs (d) and (e) of subsection (12) are redesignated as paragraphs (c) and (d), respectively, present subsections (15) through (17) are renumbered as subsections (16) through (18), respectively, and a new subsection (15) is added to that section, to read:

440.13 Medical services and supplies; penalty for



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13 violations; limitations.-

14 (3) PROVIDER ELIGIBILITY; AUTHORIZATION.-

15 (a) As a condition for ~~to~~ eligibility for payment under
16 this chapter, a health care provider who renders services must
17 be a certified health care provider and must receive
18 authorization from the carrier before providing treatment. This
19 paragraph does not apply to emergency care. An employer or a
20 carrier may not refuse to authorize a physician to treat an
21 injured employee solely because the physician is a dispensing
22 practitioner, as defined in s. 465.0276. The department shall
23 adopt rules to administer ~~implement~~ the certification of health
24 care providers.

25 (k) If a physician who is a dispensing practitioner as
26 defined in s. 465.0276 receives authorization from an employer
27 or a carrier to treat a claimant pursuant to paragraph (a), the
28 physician may dispense and fill prescriptions for medicines
29 under this chapter. For purposes of dispensing and filling
30 prescriptions for medicines, the department, employer, or
31 carrier, or an agent or representative of the department,
32 employer, or carrier, may not select the pharmacy, pharmacist,
33 or dispensing practitioner that the claimant must use.

34 (12) CREATION OF THREE-MEMBER PANEL; GUIDES OF MAXIMUM
35 REIMBURSEMENT ALLOWANCES.-

36 ~~(c) As to reimbursement for a prescription medication, the~~
37 ~~reimbursement amount for a prescription shall be the average~~
38 ~~wholesale price plus \$4.18 for the dispensing fee, except where~~
39 ~~the carrier has contracted for a lower amount. Fees for~~
40 ~~pharmaceuticals and pharmaceutical services shall be~~
41 ~~reimbursable at the applicable fee schedule amount. Where the~~



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42 ~~employer or carrier has contracted for such services and the~~
43 ~~employee elects to obtain them through a provider not a party to~~
44 ~~the contract, the carrier shall reimburse at the schedule,~~
45 ~~negotiated, or contract price, whichever is lower. No such~~
46 ~~contract shall rely on a provider that is not reasonably~~
47 ~~accessible to the employee.~~

48 (15) REIMBURSEMENT FOR PRESCRIPTION MEDICATION.—The
49 reimbursement amount for prescription medication shall be the
50 average wholesale price plus \$4.18 for the dispensing fee,
51 unless the carrier and the provider seeking reimbursement have
52 directly contracted with each other for a lower reimbursement
53 amount.

54 (a) If a prescription has been repackaged or relabeled, the
55 provider shall give a \$15 credit to the insurance carrier or
56 self-insured employer for each prescription that costs more than
57 \$25. The credit shall be reflected in the Explanation of Bill
58 Review provided by the carrier or employer. The credit does not
59 apply if the carrier and the provider seeking reimbursement have
60 directly contracted with each other for a lower reimbursement
61 amount. Any credit to a self-insured employer shall be directly
62 deposited to the self-insurance fund of the entity.

63 (b) A physician or the physician's assignee may not hold an
64 ownership interest in a licensed pharmaceutical repackaging
65 entity and may not set or cause to be set a repackaged
66 pharmaceutical average wholesale price.

67 (c) An insurance carrier or self-insured employer that
68 improperly denies or delays payment of a valid claim for
69 reimbursement of a prescription medication is subject to an
70 administrative fine of \$250 per instance of improper



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71 reimbursement. If the department determines that a carrier or
72 employer has improperly denied or delayed reimbursement claims
73 more than 15 times in any one calendar year, the administrative
74 penalty increases to \$1,000 per instance of improper
75 reimbursement. If the department determines that a carrier or
76 employer has improperly denied or delayed reimbursement claims
77 more than 100 times in any one calendar year, the insurer or
78 employer must show cause to the department as to why its
79 certificate of authority to underwrite workers' compensation
80 insurance should not be revoked or suspended. The penalties in
81 this paragraph are not exclusive and are in addition to remedies
82 provided under part IX of chapter 626.

83 (d) Pursuant to subsection (7), a provider may challenge a
84 disallowance, denial, or adjustment of payment by filing a
85 petition for dispute resolution with the department within 30
86 days after receiving the final Explanation of Bill Review issued
87 by the insurance carrier or self-insured employer. The carrier
88 or self-insured employer must clearly state on the face of the
89 final Explanation of Bill Review when the 30-day period for
90 filing a petition for dispute resolution with the department
91 commences.

92 Section 2. Effective July 1, 2012, the Office of Insurance
93 Regulation shall reduce the rates of workers' compensation and
94 employer liability insurance carriers by 2.5 percent.

95 Section 3. Effective upon this act becoming a law and
96 before July 1, 2012, the Office of Insurance Regulation shall
97 conduct a retrospective review of any rate filing submitted by a
98 rating organization on behalf of workers' compensation or
99 employer's liability insurance carriers during the previous 12



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100 months which resulted in a rate increase. The office's review
101 must determine whether the information, data, and documentation
102 included in the rate filings include cost information
103 demonstrating that 2.5 percent of the overall rate increase that
104 was subsequently approved was directly attributable to the costs
105 of repackaging prescription medications. If the office
106 determines that such documentation or information was not
107 included in the rate filing, the office shall immediately reduce
108 the rates of workers' compensation and employer liability
109 insurance carriers by 2.5 percent. The office shall also make
110 its review available to the Senate and the House of
111 Representatives by October 1, 2012.

112 Section 4. Except as otherwise expressly provided in this
113 act and except for this section, which shall take effect upon
114 this act becoming a law, this act shall take effect July 1,
115 2012.

116
117 ===== T I T L E A M E N D M E N T =====

118 And the title is amended as follows:

119 Delete everything before the enacting clause
120 and insert:

121 A bill to be entitled
122 An act relating to workers' compensation medical
123 services; amending s. 440.13, F.S.; prohibiting an
124 employer or carrier from refusing to authorize a
125 physician who is a prescribing physician; prohibiting
126 the Department of Financial Services, the employer, or
127 the carrier from selecting a claimant's pharmacy;
128 revising requirements for determining the amount of a



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129 reimbursement for prescription medications;
130 prohibiting a physician from having an ownership
131 interest in a pharmacy repackaging entity or setting
132 pharmaceutical wholesale prices; providing penalties
133 for an employer or carrier's improper delay or denial
134 of payment and procedures for a provider to challenge
135 a disallowance, denial, or adjustment of payment;
136 requiring the Office of Insurance Regulation to reduce
137 rates for workers' compensation and employer liability
138 insurance by a specified amount; requiring the Office
139 of Insurance Regulation to conduct a retrospective
140 review of certain rate filings to determine if the
141 filings were supported by documentation demonstrating
142 that a certain portion of the approved rate increase
143 was attributable to the costs of repackaging
144 prescription medications and to reduce rates if not so
145 supported; providing effective dates.