

Workers' Compensation Legislative & Regulatory Update

from McConnaughay, Duffy, Coonrod, Pope & Weaver, P.A.

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With the Annual Workers' Compensation Educational Conference concluding in August, the Florida workers' compensation industry (including this newsletter) "gets back to business." NCCI has made its annual rate filing for workers' compensation rates for the coming year and a hearing has been scheduled. The Division of Workers' Compensation has issued its Annual Report to Industry and continues to monitor/educate on required data filings by claims administrators. Finally, the Division of Workers' Compensation has begun looking at growing concerns about pharmaceuticals being issued by physician offices as opposed to the normal process of injured workers obtaining their prescriptions through licensed pharmacies. The flurry of recent activity presents a "business as usual" scenario in the Florida workers' compensation community.

Workers' Compensation Conference

Even in a down economy, the Annual Workers' Compensation Educational Conference (64th) in Orlando continued its leadership in workers' compensation education on a national scale as evidenced by increased numbers in attendance. In partnership with NIOSH (CDC), The National Underwriter, The Sunshine Educational Research Center at the University of South Florida, and other national and state trade associations, the Florida Workers' Compensation Institute hosted over 6000 attendees interested in workers' compensation issues. The program consisted of over 90 pages of breakouts for all interest groups on a national scale and featured presentations by Emmitt Smith, future NFL Hall of Fame football player; a live surgical procedure; National Moot Court Competition (12 law schools from

throughout the country); live appellate court proceedings of real workers' compensation cases under review; recognition of the National Workers' Compensation Risk Manager of the Year sponsored by The National Underwriter and NCCI (the three winners will be speaking at the national RIMS conference next year in Boston); 350 exhibitors from throughout the country; and for the first time, the National Association of Workers' Compensation Judiciary held its inaugural college at the conference exclusively for workers' compensation judges with over 40 in attendance representing nine states. In separate breakouts, the substantive laws of eight states were discussed with conference attendees (Florida, Georgia, North Carolina, South Carolina, Tennessee, Alabama, Mississippi, and Texas to be expanded next year to include Louisiana and California). The conference has truly become a "must attend" annual national educational event.

Division of Workers' Compensation Annual Report

The Florida Division of Workers' Compensation has published its annual report for 2009. This year's report highlights the extraordinary amount of data that has been collected by the Division, the process through which it was collected, and the uses for the data not only by regulators but also by all stakeholders and policymakers. This annual report also discusses the many new and innovative programs that have been established by the Division (many of which have been explained to readers of this newspaper) to ensure the self-execution of the workers' compensation system. The data and established programs are designed to assist workers, employers, health care providers and insurers in complying with their statutory obligations under the Florida Workers' Compensation Act. This report can be viewed or printed from the Department's website under News and Updates or Publications and is available at <http://www.myfloridcfo.com/wc/>. Parts of this annual report will be discussed in future newsletters.

Division of Workers' Compensation Workshops

The Division is offering a free two-day training class on Claims EDI Release 3 and Associated EDI Rule 69L-56, Florida Administrative Code on Tuesday, October 6 and Wednesday, October 7, 2009 in Tallahassee. This course is recommended for insurers and administrators who are responsible for R3 EDI claims reporting and responding to claims EDI errors. Registration forms for this valuable training course can be obtained at <http://www.myfloridacfo.com/wc/ediclaims.htm/> and should be faxed to the Division at 850-488-3453.

NCCI Rate Filing

October 6, 2009 at 9:00 a.m. in the Cabinet Room at The Capitol in Tallahassee has been established as the hearing date for the NCCI filing related to workers' compensation rates for 2010. On August 20, 2009, NCCI made a rate filing requesting an overall decrease in rate levels of 6.8% in the voluntary market for all new and renewal workers' compensation insurance policies within the state of Florida effective January 1, 2010. All persons interested in presenting expert testimony at this hearing must pre-file their testimony in writing with the Office of Insurance Regulation on or before September 29, 2009. Such pre-filing should be made to the attention of Steven H. Parton, Gen-

eral Counsel, Office of Insurance Regulation, 200 East Gaines Street, Tallahassee, Florida, 32399-4206.

Pharmaceutical Reimbursements

The Division of Workers' Compensation has received inquiries as to whether it is appropriate for employers/carriers to deny authorization or reimbursement for prescription medications when the prescription medication is disbursed by a Florida physician instead of a pharmacist. In response to these inquiries, the Division issued Informational Bulletin DFS-02-2009. In summary, the Division noted that it was not aware of any specific provision in the Workers' Compensation Act that responded directly to this question. However, reference was made to Section 465.0276, Florida Statutes, which provides that only licensed pharmacists can dispense medicinal drugs except that a practitioner authorized by law to prescribe drugs may dispense such drugs to her or his patients in the regular course of her or his practice in compliance with the law. Prescription reimbursement amounts as referenced in Section 440.13(12)(c), Florida Statutes, must be considered. Questions related to this bulletin can be directed to Samuel Willis, III, Medical/Health Care Program Analyst, Division of Workers' Compensation, Office of Medical Services at Samuel.willis@myfloridacfo.com or by telephone at 850-413-1898.