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Technology Association
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National Federation of
Independent Business
California Business Roundtable
California Farm Bureau
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Association of California School
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New regulations close drug price loophole

Drug repackaging firm suing to block new rules

Sacramento, CA – The Workers' Compensation Action Network (WCAN) today applauded the Division of Workers' Compensation for closing a costly loophole that allowed prescription drugs dispensed at physicians' offices to be marked up by an average of 490 percent over pharmacy prices. The new regulations take effect today, despite legal maneuvers by a drug repackaging firm to block their implementation.

“These regulations will end a clear-cut abuse by those who exploited a loophole in the fee schedule for pharmaceuticals,” said Allan Zaremborg, president and CEO of the California Chamber of Commerce and WCAN co-chair. “Business and labor both supported this effort because it will save hundreds of millions of dollars while preserving injured workers' access to pharmaceuticals at their physicians' offices.”

At issue is a loophole in the Medical Pharmacy Fee Schedule that has allowed drugs to be dispensed at higher prices at physicians' offices if the National Drug Code has been removed when the drugs are purchased in bulk but then sold to physicians' offices in individual prescription sizes, otherwise known as repackaging.

According to the Commission on Health and Safety and Workers' Compensation (CHSWC), while 30 percent of pharmaceuticals are dispensed by physicians at their offices, those pharmaceuticals account for 50 percent of all pharmaceutical costs in the workers' comp system. The CHSWC study found that the average mark-up was 490 percent over the price paid at a pharmacy. In some cases the mark-up exceeds 1,000 percent. Prior to the regulations, CHSWC estimated that insurers and self-insured employers will pay \$263 million more for drugs dispensed by physicians in 2006 and that employers will pay \$490 million in additional premium than if all pharmaceuticals were dispensed at pharmacies.

(More)

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“After nearly two years of debate, these regulations strike the right balance between giving workers the convenience of immediate prescriptions at their doctors’ office and making sure that employers aren’t paying far above market price for basic prescription drugs,” said Jack Stewart, president of the California Manufacturers & Technology Association and WCAN co-chair.

The regulations require that drugs dispensed by physicians be in accordance with the Medicare fee schedule, plus a dispensing fee of \$7.25 for physicians.

On Monday, an effort to block the regulations from becoming effective was filed by drug repackaging firm Sentinel Health Medical Group, Inc., which stated that it will be “irreparably harmed” by the regulations. Although the application for a temporary restraining order was denied, a hearing has been set for March 14 in Alameda County Superior Court.

WCAN is a statewide, broad-based grassroots coalition of employer and insurer trade groups, businesses, non-profit organizations and public entities working together to ensure the full and successful implementation of reforms to restore predictability and stability to the workers’ compensation system, reduce costs for employers and improve services to injured workers. WCAN works to ensure that California employers and the media are informed about the implementation process so the legislative gains are protected and realized to ensure injured employees are given necessary medical care promptly and receive benefits timely, fraud is eliminated, legitimate disputes are resolved fairly and quickly, and system costs are reduced where inefficiencies and inequities exist.

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