



July 23, 2010

Texas Closed Formulary

On July 16, 2010, the Texas Division of Workers' Compensation (TDWC) published proposed formal rules relating to the implementation of their pharmacy closed formulary. TDWC, PMSI and other stakeholders have been working on the closed formulary for close to two years, and TDWC has been very collaborative with various stakeholders throughout the process. Publication of this formal rule proposal indicates that final implementation of the closed formulary is imminent and initiates the formal rule-making process.

Once formal rules are proposed, the time frame for review and comment by stakeholders, coupled with review and response by TDWC, usually takes 90 days. TDWC has indicated that all public comments are due by August 16, 2010 and has scheduled a public hearing in Austin for the same day. Thus, barring unforeseen complications, TDWC will adopt final rules no later than mid-September, with a current proposed implementation date of January 1, 2011.

PMSI urges our clients and pharmacy partners to review the proposed rules by clicking on the following link: www.tdi.state.tx.us/wc/rules/proposedrules/documents/prpharm072010.pdf and, if they feel it necessary, to provide comments either to PMSI or directly to TDWC. As part of our comments, PMSI will suggest delaying initial implementation to mid-2011 in order to provide stakeholders reasonable time to implement and address required system-wide changes.

PMSI is committed to assisting our clients in understanding the complexities of the proposed closed formulary rules and providing as much lead time as possible for development and implementation of policies required by any adopted final rule. It is important to remember that the requirements and policies of these proposed formal rules are subject to change as the rule-making process remains fluid. However, it is very likely that requirements contained in this version of proposed rules will be included in any final adopted rule.

Formal Proposed Pharmacy Closed Formulary Highlights

- Requires drugs excluded from closed formulary (drugs indicated as "N" on ODG Treatment Guidelines / Drug Appendix A) to receive preauthorization in accordance with Texas Administrative Code Chapter 134.600 and Chapter 19 (Subchapter R & U)
- Defines these drugs as any indicated "N" drug (prescription or OTC) or any compound which contains a drug ingredient identified as an "N" drug
- Applies closed formulary to new claims (claims DOI on or after January 1, 2011) as of January 1, 2011
- Applies closed formulary to legacy claims (claims DOI prior to January 1, 2011) as of January 1, 2013



- Requires carriers to identify existing legacy claims/claimants no later than July 1, 2012 and provide written notification to injured workers and treating doctors (and pharmacy providers, if known) of pending closed formulary implementation
- Requires carriers to establish protocols for transition of legacy claims (including establishment of a carrier representative to handle transition) and provide this information to prescribing doctors
- Allows carriers, treating doctors and pharmacy providers to begin voluntary transition of legacy claims effective January 1, 2011, via cooperative efforts
- Requires a Statement of Medical Necessity (SMN) from prescribing physician for final preauthorization determination
- Requires prescribing doctor to issue a statement of medical necessity to injured worker, other requesting entity or entity processing preauthorization request—SMN must contain specific information
- Indicates preauthorized “N” drugs are not subject to retrospective review for medical necessity, while other drugs remain subject to retrospective review for medical necessity
- Reiterates initial dispense of “N” drugs pursuant to Section 413.0141 Texas Workers’ Compensation Act and Chapter 134.501 Texas Administrative Code for first seven days from date of injury requires reimbursement—regardless of subsequent compensability—but states “N” drugs dispensed under seven-day rule remain subject to retrospective review

In anticipation of this rule, PMSI is currently reviewing our pharmacy claims data to determine overall impact of the closed formulary and is developing extensive plans to implement TDWC’s requirements, meet all proposed or adopted deadlines and provide preauthorization/utilization review solutions. We look forward to working with our clients to understand their needs, coordinate with their current utilization review processes and ensure compliance with this important change to the Texas workers’ compensation environment.

If you have any questions, please contact your Account Manager, or you may also contact our Director of Government Affairs, Kevin Tribout, at Kevin.Tribout@pmsionline.com or 813.627.2445.

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