

MedChi

The Maryland State Medical Society

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TO: The Honorable Peter A. Hammen, Chairman
Members, House Health & Government Operations Committee
The Honorable Sally Jameson

FROM: Joseph A. Schwartz, III
Pamela Metz Kasemeyer
J. Steven Wise

DATE: March 19, 2013

RE: **OPPOSE** – House Bill 1389 – *Workers’ Compensation – Reimbursement for Drugs – Fee Schedule and Requirements*

The Maryland State Medical Society (MedChi), which represents over 7,500 Maryland physicians and their patients, opposes House Bill 1389.

House Bill 1389 provides for the Workers’ Compensation Commission (WCC) to implement a fee schedule for dispensed medications which would not exceed the “original manufacturer’s” average wholesale price (AWP) for a particular medicine. Unlike chain pharmacies, doctors do not obtain medications they dispense from “original manufacturers” rather, they rely upon repackaging companies to provide the correct medications in prescription size format (30 day, 60 day, etc.). The repackaging companies are considered “manufacturers” under federal law but their AWP is always higher than the original manufacturer AWP to compensate them for their services in providing the unadulterated and correctly sized prescriptions dispensed from a doctor’s office. House Bill 1389 effectively means that doctors will be compensated less for the medications they dispense than they pay to obtain them. This is part of a national effort by workers’ compensation insurers to end physician dispensing.

House Bill 1389 is a current iteration of a Regulation proposed by the WCC in 2011 which established “original manufacturer” AWP in all workers’ compensation cases. That Regulation came before the AELR Committee in February 2012 and, after a four hour hearing, the AELR Committee turned down that regulation by a vote of 14-1. Testimony from doctors and patients at the AELR hearing established that the proposed fee schedule

would effectively end doctor dispensing much to the detriment of injured workers who are

now able to obtain dispensed medications at the time of their doctor visit and begin therapy immediately.

The WCC Regulation was predicated upon a report of the Workers' Comp Research Institute (WCRI) published in 2010. The WCRI Report concluded that physicians who dispensed drugs charged more "per pill" than pharmacies but also established that, while Maryland doctors charge more "per pill", they also dispensed less pills and the medication cost per claim was approximately 40% less than those patients who were sent to the pharmacy for their medications. The WCRI Report demonstrated the following:

	Physician Dispensed	Pharmacy Dispensed
Avg. Price Per Pill	\$1.71	\$1.19
Avg. Pills/Claim	183	344
Rx Price Per Claim	\$255	\$445

In July 2011, the WCRI Report was updated and covered 27,493 Maryland claims with greater than 7 days of lost time. The 2011 update revealed the same disparity between claims where physicians had dispensed medications as opposed to medicines being dispensed by a pharmacy. The physician dispensed medicine price per claim was \$340 as opposed to the \$698 cost of medication where there was a pharmacy dispensing.

Currently, there are 1,442 Maryland physicians who have "dispensing permits" issued by the Maryland Board of Physicians. This means that approximately 10% of the physicians actually treating patients in Maryland have dispensing permits. Certain specialties (orthopedics, pain management) regularly dispense medications to their patients. The advantage to both physician and patient is that the patient immediately receives the medication and begins therapy and, in a workers' compensation context, this means that patients are more quickly returned to work. Passage of House Bill 1389 will significantly alter the present dispensing practices in workers' compensation cases.

MedChi would ask for an unfavorable report on House Bill 1389.

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