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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/23/2013	.	
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The Committee on Appropriations (Hays) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause and insert:

Section 1. Subsection (12) of section 440.13, Florida Statutes, is amended to read:

440.13 Medical services and supplies; penalty for violations; limitations.—

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

(a) A three-member panel is created, consisting of the Chief Financial Officer, or the Chief Financial Officer's



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13 designee, and two members to be appointed by the Governor,
14 subject to confirmation by the Senate, one member who, on
15 account of present or previous vocation, employment, or
16 affiliation, shall be classified as a representative of
17 employers, the other member who, on account of previous
18 vocation, employment, or affiliation, shall be classified as a
19 representative of employees. The panel shall determine statewide
20 schedules of maximum reimbursement allowances for medically
21 necessary treatment, care, and attendance provided by
22 physicians, hospitals, ambulatory surgical centers, work-
23 hardening programs, pain programs, and durable medical
24 equipment. The maximum reimbursement allowances for inpatient
25 hospital care shall be based on a schedule of per diem rates, to
26 be approved by the three-member panel no later than March 1,
27 1994, to be used in conjunction with a precertification manual
28 as determined by the department, including maximum hours in
29 which an outpatient may remain in observation status, which
30 shall not exceed 23 hours. All compensable charges for hospital
31 outpatient care shall be reimbursed at 75 percent of usual and
32 customary charges, except as otherwise provided by this
33 subsection. Annually, the three-member panel shall adopt
34 schedules of maximum reimbursement allowances for physicians,
35 hospital inpatient care, hospital outpatient care, ambulatory
36 surgical centers, work-hardening programs, and pain programs. An
37 individual physician, hospital, ambulatory surgical center, pain
38 program, or work-hardening program shall be reimbursed either
39 the agreed-upon contract price or the maximum reimbursement
40 allowance in the appropriate schedule.

41 (b) It is the intent of the Legislature to increase the



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42 schedule of maximum reimbursement allowances for selected
43 physicians effective January 1, 2004, and to pay for the
44 increases through reductions in payments to hospitals. Revisions
45 developed pursuant to this subsection are limited to the
46 following:

47 1. Payments for outpatient physical, occupational, and
48 speech therapy provided by hospitals shall be reduced to the
49 schedule of maximum reimbursement allowances for these services
50 which applies to nonhospital providers.

51 2. Payments for scheduled outpatient nonemergency
52 radiological and clinical laboratory services that are not
53 provided in conjunction with a surgical procedure shall be
54 reduced to the schedule of maximum reimbursement allowances for
55 these services which applies to nonhospital providers.

56 3. Outpatient reimbursement for scheduled surgeries shall
57 be reduced from 75 percent of charges to 60 percent of charges.

58 4. Maximum reimbursement for a physician licensed under
59 chapter 458 or chapter 459 shall be increased to 110 percent of
60 the reimbursement allowed by Medicare, using appropriate codes
61 and modifiers or the medical reimbursement level adopted by the
62 three-member panel as of January 1, 2003, whichever is greater.

63 5. Maximum reimbursement for surgical procedures shall be
64 increased to 140 percent of the reimbursement allowed by
65 Medicare or the medical reimbursement level adopted by the
66 three-member panel as of January 1, 2003, whichever is greater.

67 (c) As to reimbursement for a prescription medication, the
68 reimbursement amount for a prescription shall be the average
69 wholesale price plus \$4.18 for the dispensing fee, ~~except where~~
70 ~~the carrier has contracted for a lower amount.~~ For repackaged or



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71 relabeled prescription medications dispensed by a dispensing
72 practitioner as provided in s. 465.0276, the fee schedule for
73 reimbursement shall be 112.5 percent of the average wholesale
74 price, plus \$8.00 for the dispensing fee. For purposes of this
75 subsection, the average wholesale price shall be calculated by
76 multiplying the number of units dispensed times the per-unit
77 average wholesale price set by the original manufacturer of the
78 underlying drug dispensed by the practitioner, based upon the
79 published manufacturer's average wholesale price published in
80 the Medi-Span Master Drug Database as of the date of dispensing.
81 All pharmaceutical claims submitted for repackaged or relabeled
82 prescription medications must include the National Drug Code of
83 the original manufacturer. Fees for pharmaceuticals and
84 pharmaceutical services shall be reimbursable at the applicable
85 fee schedule amount except where the employer or carrier, or a
86 service company, third party administrator, or any entity acting
87 on behalf of the employer or carrier directly contracts with the
88 provider seeking reimbursement for a lower amount. ~~Where the~~
89 ~~employer or carrier has contracted for such services and the~~
90 ~~employee elects to obtain them through a provider not a party to~~
91 ~~the contract, the carrier shall reimburse at the schedule,~~
92 ~~negotiated, or contract price, whichever is lower. No Such~~
93 ~~contract shall rely on a provider that is not reasonably~~
94 ~~accessible to the employee.~~

95 (d) Reimbursement for all fees and other charges for such
96 treatment, care, and attendance, including treatment, care, and
97 attendance provided by any hospital or other health care
98 provider, ambulatory surgical center, work-hardening program, or
99 pain program, must not exceed the amounts provided by the



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100 uniform schedule of maximum reimbursement allowances as
101 determined by the panel or as otherwise provided in this
102 section. This subsection also applies to independent medical
103 examinations performed by health care providers under this
104 chapter. In determining the uniform schedule, the panel shall
105 first approve the data which it finds representative of
106 prevailing charges in the state for similar treatment, care, and
107 attendance of injured persons. Each health care provider, health
108 care facility, ambulatory surgical center, work-hardening
109 program, or pain program receiving workers' compensation
110 payments shall maintain records verifying their usual charges.
111 In establishing the uniform schedule of maximum reimbursement
112 allowances, the panel must consider:

113 1. The levels of reimbursement for similar treatment, care,
114 and attendance made by other health care programs or third-party
115 providers;

116 2. The impact upon cost to employers for providing a level
117 of reimbursement for treatment, care, and attendance which will
118 ensure the availability of treatment, care, and attendance
119 required by injured workers;

120 3. The financial impact of the reimbursement allowances
121 upon health care providers and health care facilities, including
122 trauma centers as defined in s. 395.4001, and its effect upon
123 their ability to make available to injured workers such
124 medically necessary remedial treatment, care, and attendance.
125 The uniform schedule of maximum reimbursement allowances must be
126 reasonable, must promote health care cost containment and
127 efficiency with respect to the workers' compensation health care
128 delivery system, and must be sufficient to ensure availability



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129 of such medically necessary remedial treatment, care, and
130 attendance to injured workers; and

131 4. The most recent average maximum allowable rate of
132 increase for hospitals determined by the Health Care Board under
133 chapter 408.

134 (e) In addition to establishing the uniform schedule of
135 maximum reimbursement allowances, the panel shall:

136 1. Take testimony, receive records, and collect data to
137 evaluate the adequacy of the workers' compensation fee schedule,
138 nationally recognized fee schedules and alternative methods of
139 reimbursement to certified health care providers and health care
140 facilities for inpatient and outpatient treatment and care.

141 2. Survey certified health care providers and health care
142 facilities to determine the availability and accessibility of
143 workers' compensation health care delivery systems for injured
144 workers.

145 3. Survey carriers to determine the estimated impact on
146 carrier costs and workers' compensation premium rates by
147 implementing changes to the carrier reimbursement schedule or
148 implementing alternative reimbursement methods.

149 4. Submit recommendations on or before January 1, 2003, and
150 biennially thereafter, to the President of the Senate and the
151 Speaker of the House of Representatives on methods to improve
152 the workers' compensation health care delivery system.

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154 The department, as requested, shall provide data to the panel,
155 including, but not limited to, utilization trends in the
156 workers' compensation health care delivery system. The
157 department shall provide the panel with an annual report



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158 regarding the resolution of medical reimbursement disputes and
159 any actions pursuant to subsection (8). The department shall
160 provide administrative support and service to the panel to the
161 extent requested by the panel. For prescription medication
162 purchased under the requirements of this subsection, a
163 dispensing practitioner shall not possess such medication unless
164 payment has been made by the practitioner, the practitioner's
165 professional practice, or the practitioner's practice management
166 company or employer to the supplying manufacturer, wholesaler,
167 distributor, or drug repackager within 60 days of the dispensing
168 practitioner taking possession of that medication.

169 Section 2. This act shall take effect July 1, 2013.

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171 ===== T I T L E A M E N D M E N T =====

172 And the title is amended as follows:

173 Delete everything before the enacting clause
174 and insert:

175 A bill to be entitled

176 An act relating to workers' compensation; amending s.
177 440.13, F.S.; revising requirements for determining
178 the amount of a reimbursement for repackaged or
179 relabeled prescription medication; providing an
180 exception; prohibiting a dispensing manufacturer from
181 possession of a medicinal drug until certain persons
182 are paid; providing an effective date.