STATUTORY REVISIONS TO REIMBURSEMENT OF PRACTITIONER
DISPENSED REPACKAGED MEDICATION
CS/SB 662 (Ch. 2013-131, Laws Of Florida) Effective July 1, 2013

DISCLAIMER

The following series of questions and answers is provided by the Division of Workers' Compensation for informational purposes only, with a goal to generally assist stakeholders in understanding recent amendments to section 440.13(12)(c), Florida Statutes. To the extent any of the information contained in the questions and answers may not be supported by the plain meaning of the amended statute, that information is not to be construed as a Department of Financial Services statement of general applicability that implements, interprets, or prescribes law or policy or describes the procedure or practice requirements of the Department of Financial Services. The Department of Financial Services is in the process of initiating rulemaking proceedings regarding the recent amendments to section 440.13(12)(c), Florida Statutes, which will be the process through which any statement of general applicability that implements, interprets, or prescribes section 440.13(12)(c), Florida Statutes as amended, or describes procedure or practice requirements of the Department of Financial Services regarding the amended statute, will be promulgated.

FREQUENTLY ASKED QUESTIONS

1. Q: When do the changes to Section 440.13(12)(c), Florida Statutes (F.S.) take effect?

   A: The changes to Section 440.13(12)(c), F.S. become effective July 1, 2013. The new law will apply to any repackaged[1] prescription medications dispensed by a practitioner on or after July 1, 2013.

[1] Section 440.13(12)(c), Florida Statutes, uses the term "repackaged or relabeled". Whenever the Division uses the term "repackaged" or "repack", it is a reference to the statutory term "repackaged or relabeled".
The statute uses the term "prescription medication". References to "medication" in this document are meant to be to "prescription medication" and do not include Over-the-Counter (OTC) medication. The statute also uses the terms "medication" and "drug" interchangeably. They are also used interchangeably in this document.

2. Q: Which form should a dispensing practitioner use when billing for dispensed medications?

   A: The proper form for billing practitioner dispensed medications is the Health Provider Claim Form/CMS-1500 also known as the DFS-F5-DWC-9. It may be found on the Centers for Medicare and Medicaid Services website or through a link on the Division's web page under Rule Chapter 69L-7.

3. Q: Which National Drug Code (NDC) number should be used when billing practitioner dispensed repackaged medications?

   A: Section 440.13(12)(c), F.S., states that pharmaceutical claims for repackaged must include the original manufacturer's NDC. However, this alone will not provide all the information needed by the carrier to accomplish correct reimbursement. The carrier will also need the dispensed, repackaged NDC to know that the billed medication should be reimbursed at the appropriate rate.

4. Q: Is the repackaged NDC (i.e., the dispensed NDC) required to be on the bill?

   A: Pursuant to the Florida Workers' Compensation Medical Services Billing, Filing and Reporting Rule, 69L-7.602, F.A.C., the provider is required to identify the dispensed NDC on the bill. So, if the practitioner dispensed a repackaged medication, it is required on the bill. Since the law change requires that the original manufacturer's NDC be included in the claim, both the original and repackaged NDC now must be documented by the provider. The Division believes that the best practice in this regard is for

the provider to bill both NDCs in the upper level of the billed line. In other words, the provider is encouraged to bill both NDCs on the same line. If a carrier wishes to verify the original manufacturer's NDC or have it documented in a particular way, the rule allows a carrier to request in writing, at the time of authorization, the specific documentation necessary to accomplish reimbursement.

5. Q: May a billed line item for a repackaged medication be denied, disallowed, or returned if the dispensing practitioner neglected to include the NDC of the original manufacturer?

A: It is not proper to deny[2] an entire bill or single line item if the National Drug Code of the original manufacturer was omitted.

The line item in question may be **disallowed**, using EOBR Code 66 to disallow the line for a missing NDC Number; however, a carrier may obtain the omitted NDC Number and reimburse it using EOBR Code 80. Please note that The Division plans to add EOBR Codes specific to repackaged medication that the carriers and their vendors may begin using on a voluntary basis to report their adjustment of repackaged medication reimbursement. Edits in the Medical Data System (MDS) would be instituted to allow the voluntary use of these new codes.

A carrier may use Section 69L-7.602(5)(j), Florida Administrative Code (F.A.C.), to return a bill that omits the original manufacturer's NDC. The Division encourages that a carrier

[2] The terms "denial", "deny" or "denied" represents a contention that the claim or benefit is not compensable and that the carrier is without liability. The terms "disallow" or "disallowed" represents a contention that the claim or benefit is not reimbursable for some stated reason, but that compensability is not at issue.

disallows or adjusts billed line items using the EOBR Codes listed in 69L-7.602(5)(o), F.A.C. rather than return the bill.

6. Q: What if a practitioner disagrees with the amount(s) reimbursed by the carrier or entity acting on behalf of the carrier?

   A: The practitioner may file a Petition for Reimbursement Dispute with the Division of Workers' Compensation within 45 days of their receipt of notice of disallowance or adjustment of payment (i.e., EOBR). Details may be found on the Division's website.

7. Q: What is the proper reimbursement rate for billed practitioner dispensed repackaged medications?

   A: Absent a valid contract directly between the employer or carrier, or its representative, and the provider, or its representative, seeking reimbursement, section 440.13(12)(c), F.S., states that reimbursement shall be 112.5 percent of the original manufacturer's average wholesale price (AWP), plus $8.00 for the dispensing fee.

8. Q: When may a carrier reimburse practitioner dispensed medications based on a contract rate?

   A: Reimbursement under a contract is appropriate where there is a valid contract governing reimbursement, and the contract is **directly** between the employer or carrier, or its representative, and the provider, or its representative. However, to reimburse under the contract, the amount to be reimbursed must be less than the fee schedule amount. Reimbursement based on third-party contracts was repealed by the law change.

9. Q: What does average wholesale price, in regards to repackaged prescription medications dispensed by a practitioner, mean?

   A: Pursuant to section 440.13(12)(c), F.S., the AWP means the per-unit average wholesale price, set by the original manufacturer of the underlying drug dispensed by the practitioner, as published in the Medi-Span Master Drug Database.

10. Q: Should a billing practitioner use CPT code 99070 when billing for dispensing fees?

    A: No, the dispensing fee should be included in the charge for the billed line. It is a billing error to use CPT code 99070 for dispensing fees.

11. Q: What if a billing practitioner neglects to list the original manufacturer's NDC on the DFS-F5-DWC-9?

    A: The practitioner is required to include the original manufacturer's NDC in the claim for reimbursement of repackaged pharmaceuticals. The statute does not specify how the provider is to include this information. The Division believes that the best practice in this regard is for the provider to bill both NDCs in the upper level of the billed line. In other words, the provider is encouraged to bill both NDCs on the same line. If a carrier wishes to verify the original manufacturer's NDC or have it documented in a particular way, the rule allows a carrier to request in writing, at the time of authorization, the specific documentation necessary to accomplish reimbursement.

If the original manufacturer's NDC is not documented in any way The carrier has three options: 1) it may contact the provider to obtain the missing information and pay the item using EOBR code 80, 2) it may disallow the billed line because of the omitted original manufacturer's NDC using EOBR code 66, or 3) it may return the bill under rule 69L-7.602(5)(j)5., F.A.C., on account of required information that is missing.

12. Q: How long does a carrier have to reimburse a practitioner for dispensed medications?

    A: Per Section 440.20(2)(b), F.S., a carrier must pay, disallow, or deny all billed line items with 45 calendar days after the carrier's receipt of the bill. Carrier includes any entity acting on behalf of the carrier.

13. Q: Is a practitioner allowed to dispense repackaged prescription medications, or must a workers' compensation patient obtain medications through a pharmacy?

    A: Section 465.0276, F.S. allows a practitioner to dispense repackaged prescription medications to a workers' compensation patient.

14. Q: Will the Medical EDI Implementation Guide (MEIG) be updated to include the additional instructions?

    A: An update to the MEIG is under consideration. The Division plans to add EOBR Codes specific to repackaged medication that

the carriers and their vendors may begin using on a voluntary basis to report their adjustment of repackaged medication reimbursement. Edits in the Medical Data System (MDS) would be instituted to allow the voluntary use of these new codes. The Division is considering rule changes to require the use of these soon to be available EOBR codes. The MEIG would be changed to include these new EOBR codes in the appropriate appendix once they are required for use in reimbursement and reporting.

The Division is also considering rule changes that would increase the amount of data collected about medication reimbursement (e.g., to collect the repackaged NDC, in addition to the paid NDC). Such changes would require a change in layout of the flat file used by carriers and their vendors to report medical bill reimbursements. This proposal would result in the implementation of a "Revision F" of the flat file reporting format as the addition of a new field to the file layout would be required.

15. Q: The new statute requires that a practitioner shall not possess medication unless the practitioner has made payment within 60 days of receiving the medications from the distributor. How will this be handled?

A: The Division is still reviewing the meaning and impact of this provision. Any interpretation of this statute would likely require rulemaking. In the meantime, anyone concerned about their obligations under this statutory change should consult private legal counsel.

16. Q: Starting July 1, 2013, which NDC number should be reported to the Division via Medical EDI when reporting reimbursements for practitioner dispensed repackaged medication?

    A: The carrier, or their vendor, should continue to report the reimbursed NDC number (i.e., the original manufacturer's NDC).