



409686

LEGISLATIVE ACTION

Senate	.	House
Comm: RE	.	
02/23/2012	.	
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The Committee on Health Regulation (Garcia) recommended the following:

1           **Senate Substitute for Amendment (766998) (with title**  
2 **amendment)**

3  
4           Delete everything after the enacting clause  
5 and insert:

6           Section 1. Paragraph (a) of subsection (3) and paragraph  
7 (c) of subsection (12) of section 440.13, Florida Statutes, are  
8 amended, paragraph (k) is added to subsection (3), paragraphs  
9 (d) and (e) of subsection (12) are redesignated as paragraphs  
10 (c) and (d), respectively, present subsections (15) through (17)  
11 are renumbered as subsections (16) through (18), respectively,  
12 and a new subsection (15) is added to that section, to read:



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13 440.13 Medical services and supplies; penalty for  
14 violations; limitations.—

15 (3) PROVIDER ELIGIBILITY; AUTHORIZATION.—

16 (a) As a condition for ~~to~~ eligibility for payment under  
17 this chapter, a health care provider who renders services must  
18 be a certified health care provider and must receive  
19 authorization from the carrier before providing treatment. This  
20 paragraph does not apply to emergency care. An employer or a  
21 carrier may not refuse to authorize a physician to treat an  
22 injured employee solely because the physician is a dispensing  
23 practitioner, as defined in s. 465.0276. The department shall  
24 adopt rules to administer ~~implement~~ the certification of health  
25 care providers.

26 (k) If a physician who is a dispensing practitioner as  
27 defined in s. 465.0276 receives authorization from an employer  
28 or a carrier to treat a claimant pursuant to paragraph (a), the  
29 physician may dispense and fill prescriptions for medicines  
30 under this chapter. For purposes of dispensing and filling  
31 prescriptions for medicines, the department, employer, or  
32 carrier, or an agent or representative of the department,  
33 employer, or carrier, may not select the pharmacy, pharmacist,  
34 or dispensing practitioner that the claimant must use.

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

37 ~~(c) As to reimbursement for a prescription medication, the~~  
38 ~~reimbursement amount for a prescription shall be the average~~  
39 ~~wholesale price plus \$4.18 for the dispensing fee, except where~~  
40 ~~the carrier has contracted for a lower amount. Fees for~~  
41 ~~pharmaceuticals and pharmaceutical services shall be~~



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42 ~~reimbursable at the applicable fee schedule amount. Where the~~  
43 ~~employer or carrier has contracted for such services and the~~  
44 ~~employee elects to obtain them through a provider not a party to~~  
45 ~~the contract, the carrier shall reimburse at the schedule,~~  
46 ~~negotiated, or contract price, whichever is lower. No such~~  
47 ~~contract shall rely on a provider that is not reasonably~~  
48 ~~accessible to the employee.~~

49 (15) REIMBURSEMENT FOR PRESCRIPTION MEDICATION.—The  
50 reimbursement amount for prescription medication shall be the  
51 average wholesale price plus \$4.18 for the dispensing fee,  
52 unless the carrier and the provider seeking reimbursement have  
53 directly contracted with each other for a lower reimbursement  
54 amount.

55 (a) If a prescription has been repackaged or relabeled, the  
56 provider shall give a \$15 credit to the insurance carrier or  
57 self-insured employer for each prescription that costs more than  
58 \$25. The credit shall be reflected in the Explanation of Bill  
59 Review provided by the carrier or employer. The credit does not  
60 apply if the carrier and the provider seeking reimbursement have  
61 directly contracted with each other for a lower reimbursement  
62 amount.

63 (b) A physician or the physician's assignee may not hold an  
64 ownership interest in a licensed pharmaceutical repackaging  
65 entity and may not set or cause to be set a repackaged  
66 pharmaceutical average wholesale price.

67 (c) An insurance carrier or self-insured employer that  
68 improperly denies or delays payment of a valid claim for  
69 reimbursement of a prescription medication is subject to an  
70 administrative fine of \$250 per instance of improper



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71 reimbursement. If the department determines that a carrier or  
72 employer has improperly denied or delayed reimbursement claims  
73 more than 15 times in any one calendar year, the administrative  
74 penalty increases to \$1,000 per instance of improper  
75 reimbursement. If the department determines that a carrier or  
76 employer has improperly denied or delayed reimbursement claims  
77 more than 100 times in any one calendar year, the insurer or  
78 employer must show cause to the department as to why its  
79 certificate of authority to underwrite workers' compensation  
80 insurance should not be revoked or suspended. The penalties in  
81 this paragraph are not exclusive and are in addition to remedies  
82 provided under part IX of chapter 626.

83 (d) Pursuant to subsection (7), a provider may challenge a  
84 disallowance, denial, or adjustment of payment by filing a  
85 petition for dispute resolution with the department within 30  
86 days after receiving the final Explanation of Bill Review issued  
87 by the insurance carrier or self-insured employer. The carrier  
88 or self-insured employer must clearly state on the face of the  
89 final Explanation of Bill Review when the 30-day period for  
90 filing a petition for dispute resolution with the department  
91 commences.

92 Section 2. This act shall take effect July 1, 2012.

93  
94 ===== T I T L E A M E N D M E N T =====

95 And the title is amended as follows:

96 Delete everything before the enacting clause  
97 and insert:

98 A bill to be entitled  
99 An act relating to workers' compensation medical



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100 services; amending s. 440.13, F.S.; prohibiting an  
101 employer or carrier from refusing to authorize a  
102 physician who is a prescribing physician; prohibiting  
103 the Department of Financial Services, the employer, or  
104 the carrier from selecting a claimant's pharmacy;  
105 revising requirements for determining the amount of a  
106 reimbursement for prescription medications;  
107 prohibiting a physician from having an ownership  
108 interest in a pharmacy repackaging entity or setting  
109 pharmaceutical wholesale prices; providing penalties  
110 for an employer or carrier's improper delay or denial  
111 of payment and procedures for a provider to challenge  
112 a disallowance, denial, or adjustment of payment;  
113 providing an effective date.