

State of California
DEPARTMENT OF INDUSTRIAL RELATIONS
Division of Workers' Compensation

**NOTICE OF MODIFICATION TO TEXT OF
PROPOSED REGULATIONS**

Subject Matter of Regulations: Official Medical Fee Schedule - Pharmaceuticals

TITLE 8, CALIFORNIA CODE OF REGULATIONS
SECTION 9789.40

NOTICE IS HEREBY GIVEN that the Acting Administrative Director of the Division of Workers' Compensation, pursuant to the authority vested in the Administrative Director by Labor Code sections 59, 133, 4603.5, 5307.1, and 5307.3, has modified the text of the following proposed amendments to Title 8, California Code of Regulations:

Section 9789.40 Pharmacy

AVAILABILITY OF TEXT OF REGULATIONS AND RULEMAKING FILE

Copies of the original text and modified text with modifications clearly indicated, and the entire rulemaking file, are currently available for public review during normal business hours of 8:00 a.m. to 5:00 p.m., Monday through Friday, excluding legal holidays, at the offices of the Division of Workers' Compensation. The Division is located at 1515 Clay Street, 17th Floor, Oakland, California.

Please contact the Division's regulations coordinator, Ms. Maureen Gray, at (510) 286-7100 to arrange to inspect the rulemaking file.

The specific modifications include changes to the text of the proposed amendments to Title 8, California Code of Regulations:

Section 9789.40 Pharmacy

DOCUMENTS ADDED TO THE RULEMAKING FILE

- Comments from various interested parties concerning the regulations
- The transcript of the public hearing held on October 31, 2006

FORMAT OF MODIFICATIONS TO TEXT

Text Noticed for 45-Day Comment Period:

New text is indicated by underlining, thus: underlined language.

Deletions from the existing regulation text are indicated by strike-through, thus: ~~deleted language~~.

Modified Text:

Deletions from the regulatory text, as proposed in September, 2006, are indicated by double strike-through, thus: ~~~~deleted language~~~~.

Additions to the regulatory text, as proposed in September, 2006, are indicated by a double underline, thus: added language.

SUMMARY OF PROPOSED CHANGES

Modifications to Section 9789.40 Pharmacy

Subdivision (b) was modified to make the text more clear. Subdivision (c) was modified to delay the effective date of the changes to March 1, 2007.

Modifications to Section 9789.40 subdivision (b)

Subdivision (b) was changed by moving the sentence, "The maximum fee shall include only a single professional dispensing fee for dispensing for each dispensing." from subparagraph (1) to the initial portion of the subdivision, and adding the phrase, "of a drug" at the end of that sentence. The changes makes clear that only a single professional fee (for dispensing) is payable for each dispensing of a drug, regardless whether the fee is paid under subdivision (b), subdivision (b)(1), or subdivision (b)(2).

The initial part of subdivision (b) was changed by inserting the modifying phrase, "drug cost portion of the" immediately before the word "fee."

The initial part of subdivision (b) was changed for clarity by inserting the word "in" into the clause, "if the patient is in a skilled nursing facility or an intermediate care facility," immediately before the words "an intermediate care facility."

Paragraph (2) of subdivision (b) was changed for clarity by changing the word "reimbursement" to "maximum fee."