



## Government Affairs Alert

January 19, 2011

### **Texas Division of Workers' Compensation Issues Correction to Adoption Dates for Texas Pharmacy Open and Closed Formularies**

On January 14, 2011, the Texas Division of Workers' Compensation (TDWC) issued a correction to their previous notice modifying the effective date of rule adoption for the Texas pharmacy "open and closed formularies." In the correction notice, TDWC clarified the following:

*"Due to an error in the division's document submission, the effective date for the rule adoption that appeared on page 11378 was incorrectly shown as 'September 1, 2011.' The corrected effective date is 'January 17, 2011.'"*

It is critical to note that the effective date of January 17, 2011 is for open formulary implementation, not the closed formulary. **TDWC noted that implementation of the closed formulary – for new claims – remains September 1, 2011, and September 1, 2013 for legacy claims.**

Understanding the distinction between open and closed formularies is important. The open formulary includes all available FDA approved prescription and nonprescription drugs prescribed and dispensed for outpatient use. In contrast, the closed formulary includes all available FDA approved prescription and nonprescription drugs prescribed and dispensed for outpatient use, **but excludes:**

- Drugs identified with a status of "N" in the current edition of the *ODG Treatment in Workers' Comp, Appendix A, ODG Workers' Compensation Drug Formulary* (including updates)
- Any compound that contains a drug identified with a status of "N" in the current edition of the *ODG Treatment in Workers' Comp, Appendix A, ODG Workers' Compensation Drug Formulary* (including updates)
- Any investigational or experimental drugs

The open formulary is applicable to claims with dates of injury prior to September 1, 2011, referred to as "legacy claims." These claims are governed by the open formulary until they become subject to the closed formulary through the stated transition process in adopted rules (§134.510). Drugs included in the open formulary that are prescribed and dispensed for "legacy claims," not subject to a certified network, do not require preauthorization but are subject to retrospective review for medical necessity and reasonableness of health care by the insurance carrier.



## *Government Affairs Alert*



Proven Solutions for Cost Containment

**To clarify**, nothing has changed with **regard to the closed formulary implementation and requirements**. Texas is merely clarifying that the open formulary, which includes all FDA approved drugs prescribed and dispensed for outpatient use, takes effect prior to the specific implementation dates (and restrictions) of the closed formulary.

PMSI is continuing its work with industry-leading partners to achieve full compliance by the initial deadline of September 1, 2011 for the closed formulary. As your partner, PMSI remains committed to providing solutions for compliance with the closed formulary rules and will continue to help you understand the requirements through regular communications.

If you have questions about this alert or any other government-related topic, please contact your dedicated Account Manager. You may also contact PMSI's Director of Government Affairs, Kevin Tribout, at [Kevin.Tribout@pmsionline.com](mailto:Kevin.Tribout@pmsionline.com) or 813.627.2445.

**PMSI—Proven Solutions for Cost Containment.** Founded in 1976, PMSI is a leader in developing solutions to control the growth of medical costs in workers' compensation. As one of the nation's largest and most experienced companies focused solely on workers' compensation, we deliver proven solutions for cost containment across the claims lifecycle. PMSI's clinically integrated solutions for Pharmacy, Medical Services and Equipment, and Settlement Solutions deliver quantifiable results and improve the quality of care for injured workers. We provide our customers with the innovation, focus, expertise, analytics and technology needed to successfully deliver workers' compensation benefits. For more information, visit [www.pmsionline.com](http://www.pmsionline.com) or call 877.ASK.PMSI.

© 2011 PMSI, Inc. All rights reserved. Proprietary and confidential. Do not copy or distribute outside original intent.