



ADVISORY NO. 469

**TOPIC: PROPOSED AMENDMENTS TO THE PHARMACY FEE
GUIDELINE AND PHARMACEUTICAL EXPENSES INCURRED
BY THE INJURED EMPLOYEE**

The Division is proposing amendments to the Pharmacy Fee Guideline Rule 134.503) and Pharmaceutical Expenses Incurred by the Injured Employee (Rule 134.504). Those amendments and DWC notice are attached. Written comments may be made through the July 11, 2011 public hearing, as described in the notice. While FOL does not plan at this time to make additional comments, please contact Bobby Stokes at rds@fol.com or (512) 435-2150, or Steve Tipton at smt1@fol.com or (512) 435-2162 if you wish to discuss the proposals or wish FOL to make public comments on your behalf.

On a similar issue, it has come to our attention that some pharmacies and pharmacy processing agents are using a method of determining Average Whole Price (AWP) which we believe runs afoul of the Guideline. In the current and proposed Guideline, the AWP is multiplied by a factor of 1.25 for generic drugs and 1.09 for named drugs to determine the reimbursement. But AWP is an undefined term and vague concept. The current and proposed rules allow a determination of the AWP using nationally published data. Some pharmacies and pharmacy processing agents are still insisting upon a 1.25 multiplier to the Wholesale Acquisition Cost (WAC)--not to be confused with the 1.25 multiplier for generic drugs in the Guideline--to calculate AWP.

However, there is authority for the application of a 1.20 multiplier of WAC to determine the AWP. The DWC has made it clear that it is the insurance carrier, not the provider, that determines which nationally recognized methodology to apply. And carriers are expected to choose the least costly methodology for determining AWP. This bump down from 1.25 to 1.20 constitutes a 4.167% decrease in reimbursement, a significant savings in the larger scheme.

FOL has developed a response to these claims of the pharmacies and pharmacy processing agents. If you or your bill processor would like to discuss this issue further, please contact Steve Tipton at smt1@fol.com or (512) 435-2162.

FLAHIVE, OGDEN & LATSON