Regulatory Impact Statement

1. Statutory Authority:

The Chair of the Workers’ Compensation Board (Chair) is authorized to add a new subdivision (c) of section 440.8 of Title 12 NYCRR. Workers’ Compensation Law (WCL) § 117 (1) authorizes the Chair to make reasonable regulations consistent with the provisions of the WCL. WCL § 141 authorizes the Chair to enforce all provisions of the chapter and make administrative regulations and orders providing in part for the receipt, indexing, and examining of all notices, claims and reports.

2. Legislative Objectives:

The Chair of Workers’ Compensation Board is authorized to adopt reasonable rules consistent with and supplemental to the Workers’ Compensation Law (WCL) §§ 117[1] and 141). This proposal is intended to effectuate the legislative intent of WCL section 13(i), which allows carriers to require use of a pharmacy network but ensure fairness to the non-network pharmacy. This regulation restores language that makes clear that carriers must notify the pharmacy that there is a network – and if the pharmacy thereafter fills prescription, the carrier is not liable for payment if the notification process was followed.

3. Needs and Benefits:

One of the overarching goals of the Board is to provide for effective and safe treatment of injured workers. This regulation restores language that makes securing medication and prompt payment of those bills more likely by explicitly providing a process for carriers who require the use of a pharmacy network.

4. Costs:
This proposal should reduce costs overall, because it requires carriers to notify non-network pharmacies before they fill a prescription that there is a network, which should reduce disputes and ensure injured workers receive the medication they need without unnecessary obstacles.

5. Local Government Mandates:

The rule imposes no local government mandates.

6. Paperwork Requirements:

The proposed amendments to the regulations require carriers to follow an already established notification procedure in section 440.4 of Title 12 NYCRR.

7. Duplication:

The proposed regulation does not duplicate or conflict with any state or federal requirements.

8. Alternatives:

One alternative would be to not propose the addition of this section to the regulations. However, restoration of this language to section 440.8 effectuates the legislative intent of WCL section 13(i) and is expected to decrease disputes and provide for smoother procedures for injured workers to receive their necessary medications.

9. Federal Standards:

There are no federal standards applicable to this proposed regulation.

10. Compliance Schedule:

Carriers and pharmacies will need to comply with the proposed regulation when it is adopted.