

Regulatory Impact Statement for the amendment of Section 441.2 of Title 12 NYCRR

1. Statutory Authority:

Workers' Compensation Law (WCL) § 13-p requires the Chair to adopt a drug formulary and provide for amendment to the formulary upon consideration of suggestions made by interested parties, and WCL §117(1) authorizes the Chair of the Workers' Compensation Board (Board) to adopt reasonable rules consistent with, and supplemental to, the provisions of the WCL.

2. Legislative Objectives:

To establish a drug formulary that takes into account suggestions made by interested parties, while maintaining consistency with treatment guidelines.

3. Needs and benefits:

The proposed amendments seek to amend the drug formulary prior authorization process to include medical marijuana, and to update the drug formulary based on review and consideration of suggestions made by interested parties as required by section 13-p of the WCL.

The proposed amendment incorporates proposed modifications to the formulary in response to feedback received, as the intent is for the drug formulary to evolve to better address the needs of injured workers, and to keep consistent with the guidelines for treatment throughout the Workers' Compensation system.

4. Costs:

There are no additional costs associated with this proposal, because the medical marijuana variance process already exists. The proposal simply moves the approval process for medical marijuana to the drug formulary prior approval process – there are no additional costs associated with this proposal.

5. Local government mandates:

The proposed amendments do not impose any program, service, duty, or responsibility upon any county, city, town, village, school district, fire district, or other special district. However, a municipality or

governmental agency that is self-insured is required to comply with the same rules required of insurance carriers.

6. Paperwork: The proposal does not impose any new reporting requirements.

7. Duplication: The proposal does not duplicate other regulatory initiatives.

8. Alternatives:

An alternative would be to not update the prior authorization process, but as the legislative objective is to consider the suggestions of interested parties and reflect updates to medical care, medical marijuana should be reflected in the prior authorization process.

9. Federal standards. There are no applicable Federal Standards.

10. Compliance schedule:

All affected pharmacies, carriers, and self-insured employers will have to comply with the proposed changes to the prescription drug formulary, including the prior authorization process, by the effective date of the changes, June 7, 2021.