HOUSE COMMITTEE ON APPROPRIATIONS

FISCAL NOTE

SENATE BILL NO. 936 **PRINTERS NO**. 1281 **PRIME SPONSOR**: White

COST / (SAVINGS)

FUND	FY 2017/18	FY 2018/19
Commonwealth Funds	**See "Fiscal Impact"**	**See "Fiscal Impact"**
Political Subdivision Funds	**See "Fiscal Impact"**	**See "Fiscal Impact"**

SUMMARY: Amends the Workers' Compensation Act to require the Department of Labor and Industry (L&I) to adopt an evidence-based prescription drug formulary and for Utilization Review Organizations (URO) and Peer Review Organizations (PRO) to be accredited or certified by a nationally-recognized organization selected by L&I. This legislation would take effect in 60 days.

ANALYSIS: Amends the Workers' Compensation Act to require the Department of Labor and Industry (L&I) to adopt an evidence-based prescription drug formulary and for Utilization Review Organizations (URO) and Peer Review Organizations (PRO) to be accredited or certified by a nationally-recognized organization selected by L&I.

Drug Formulary: This legislation requires L&I to select a nationally recognized, evidence-based drug formulary appropriate for resolving issues related to drugs prescribed for or related to the treatment of work-related injuries.

L&I will solicit public comments regarding the selection of a drug formulary within 30 days of the legislation's effective date. The public comment period will be 90 days, and notice of the comment period will be published in the PA Bulletin. At least one public hearing will be held during the comment period.

Within 30 days of the close of the public comment period, L&I will publish notice of its selection of a drug formulary in the PA Bulletin. The formulary will take effect 180 days after the publication.

L&I must consider the following when selecting the formulary:

- Whether the formulary focuses on medical treatment issues specific to workers' compensation.
- Whether the basis for the formulary is readily apparent and publicly available.
- Whether the formulary includes measures to aid in management of opioid medications.
- Whether the formulary appropriately limits both duration and dosage of prescriptions.
- The cost of implementation of the formulary.

L&I will annually review updates issued by the formulary publisher. By November 1 each year, L&I must solicit public comment on the proposed updates. Notice of the proposed updates and the comment period will be published in the PA Bulletin. The public comment period will be at least 20, but not more than 30 days. Within 30 days of the close of the public comment period, L&I will publish notice of the adopted updates in the PA Bulletin, and the updates will take effect 30 days after publication.

L&I will ensure that the current formulary is available through its website for reference by physicians and the general public.

The prescription of drugs not consistent with or recommended by the formulary will generally not be considered reasonable and necessary for the purposes of a utilization review. A drug not consistent with or recommended by the formulary may be found reasonable and necessary in cases of medical necessity where the provider has submitted documentation of medical necessity to the insurer at the time of the initial prescription.

Within 18 months of the effective date of the drug formulary, the PA Compensation Ratings Bureau will calculate the savings achieved by the formulary. For the year following the calculation, the amount of savings will be used to immediately provide a reduction in rates on workers' compensation policies.

UROs and PROs: L&I will assign a request for utilization review to a URO at random. The report of the URO's findings will be due within the timeframe required by the national accreditation standards, except that no report shall be issued more than 30 days after the request.

L&I will only approve those UROs that it determines have obtained certification or accreditation by a nationally-recognized organization with standards appropriate for resolving utilization issues in workers' compensation programs.

L&I will publish the standards it selects in the PA Bulletin within 30 days of the legislation's effective date. UROs approved prior to the effective date may continue to operate without the certification or accreditation for up to 18 months after publication of the standards. At the end of the 18-month transition period, every URO must adhere to the new standards for all reviews for all cases where the date of injury is after the end of the transition period.

L&I will enter an agreement with the selected organization to provide for the certification or accreditation process for UROs. Current (approved before the effective date) UROs will be allowed to participate in the initial certification or accreditation process at no cost. Any URO will be allowed to participate in the renewal certification or accreditation process at no cost after January 1, 2020. Any URO that is not successful in obtaining or renewing the certification or accreditation will have to repay L&I for costs that have been incurred on the URO's behalf. The actual amount of L&I's cost for providing for the certification or accreditation process will be transferred to L&I from the Workers' Compensation Administration Fund, up to $1.5 million annually.

L&I will conduct outreach to all the current UROs to provide each of them with notice of the new standards, guidance on how the new requirements will be enforced, and information on how the UROs may participate in the certification or accreditation process at no cost.

The legislation also provides for parity between the PRO and URO processes by requiring that the peer review process and PROs comply with the requirement established for the utilization review and UROs.

Regulations: L&I must propose regulations to implement the drug formulary and the new standards for UROs within 8 months of the legislation's effective date.

FISCAL IMPACT: This legislation allows for a transfer of no more than $1.5 million annually from the Workers' Compensation Administration Fund to L&I for the cost of providing certification or accreditation and renewal after January 1, 2020 to any Utilization Review Organizations who operate in the Commonwealth. Currently, there are 21 UROs operating in the Commonwealth and the estimated costs to certify these organizations ranges from $32,000 to $36,000 each. If 21 of these UROs are certified or accredited at an average cost of $34,000, the cost would be a one-time $714,000 with a similar amount after January 1, 2020 as it is assumed that the cost to renew after January 1, 2020 would be about the same.

The Department is expected to incur minimal costs to acquire the rights to access a proprietary prescription drug formulary. These minimal costs could be absorbed within existing funding levels approved for the administration of Workers' Compensation ($78.4 million appropriated for FY 2017/18).

The Pennsylvania Compensation Rating Bureau is also required to calculate the savings incurred from using the prescription drug formulary. For calendar years 2012-2015, prescription costs accounted for 16% of medical costs or $221 million per year. In the event that cost savings of 10% were realized, this would provide $22.1 million in aggregate savings/rate reductions to insurers and self-insurers which would also include the Commonwealth and its political subdivisions as employers. Any estimate of the savings to these public bodies is indeterminable at this point.

PREPARED BY: Tim Rodrigo
House Appropriations Committee (R)

DATE: February 5, 2018

Estimates are calculated using the best information available. Actual costs and revenue impact incurred may vary from estimates.