

LEGISLATIVE COMMITTEE MINUTES

**SB95**

# Bill as Introduced

SB 95 - AS INTRODUCED

2013 SESSION

13-0887  
01/10

SENATE BILL

**95**

AN ACT relative to choice of pharmacy under workers' compensation.

SPONSORS: Sen. Carson, Dist 14; Rep. Goley, Hills 8; Rep. Theberge, Coos 3; Rep. D. Eaton, Ches 3

COMMITTEE: Commerce

---

ANALYSIS

This bill establishes that an injured employee has the right to choose his or her own pharmacy or pharmacist for purposes of medicines required under workers' compensation. This bill also establishes pharmacy fee formulas for reimbursement for prescription drugs required under RSA 281-A.

---

Explanation: Matter added to current law appears in ***bold italics***.  
Matter removed from current law appears [~~in brackets and struck through~~].  
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

*In the Year of Our Lord Two Thousand Thirteen*

AN ACT relative to choice of pharmacy under workers' compensation.

*Be it Enacted by the Senate and House of Representatives in General Court convened:*

1           1 New Paragraph; Workers' Compensation; Pharmacy Choice. Amend RSA 281-A:23 by  
2 inserting after paragraph VII the following new paragraph:

3           VIII.(a) An injured employee shall have the right to select his or her own pharmacy or  
4 pharmacist for dispensing and filling prescriptions for medicines required under this chapter.

5           (b) The insurance carrier shall reimburse the health care provider or pharmacy  
6 processing agent for prescription drugs. The fee established by the following formulas based on the  
7 average wholesale price (AWP) as reported by a nationally recognized pharmaceutical price guide or  
8 other publication of pharmaceutical pricing data in effect on the day the prescription is dispensed:

9                   (1) Generic drugs:  $(AWP \text{ per unit}) \times (\text{number of units}) \times 1.25 + \$4.00$  dispensing  
10 fee=reimbursement amount;

11                   (2) Brand name drugs:  $(AWP \text{ per unit}) \times (\text{number of units}) \times 1.09 + \$4.00$   
12 dispensing fee=reimbursement amount.

13           2 Effective Date. This act shall take effect January 1, 2014.

SB 95 - AS AMENDED BY THE SENATE

03/21/13 0867s

2013 SESSION

13-0887

01/10

SENATE BILL

**95**

AN ACT

relative to choice of pharmacy under workers' compensation.

SPONSORS:

Sen. Carson, Dist 14; Rep. Goley, Hills 8; Rep. Theberge, Coos 3; Rep. D. Eaton, Ches 3

COMMITTEE:

Commerce

---

AMENDED ANALYSIS

This bill establishes that an injured employee has the right to choose his or her own pharmacy or pharmacist for purposes of medicines required under workers' compensation.

-----  
Explanation:

Matter added to current law appears in *bold italics*.

Matter removed from current law appears [~~in brackets and struckthrough.~~]

Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

SB 95 - AS AMENDED BY THE SENATE

03/21/13 0867s

13-0887  
01/10

STATE OF NEW HAMPSHIRE

*In the Year of Our Lord Two Thousand Thirteen*

AN ACT relative to choice of pharmacy under workers' compensation.

*Be it Enacted by the Senate and House of Representatives in General Court convened:*

- 1       1 New Paragraph; Workers' Compensation; Pharmacy Choice. Amend RSA 281-A:23 by  
2 inserting after paragraph VI the following new paragraph:  
3       VII. An injured employee shall have the right to select his or her own pharmacy or  
4 pharmacist for dispensing and filling prescriptions for medicines required under this chapter.  
5       2 Effective Date. This act shall take effect January 1, 2014.

CHAPTER 95  
SB 95 - FINAL VERSION

03/21/13 0867s

2013 SESSION

13-0887  
01/10

SENATE BILL

**95**

AN ACT

relative to choice of pharmacy under workers' compensation.

SPONSORS:

Sen. Carson, Dist 14; Rep. Goley, Hills 8; Rep. Theberge, Coos 3; Rep. D. Eaton,  
Ches 3

COMMITTEE:

Commerce

---

AMENDED ANALYSIS

This bill establishes that an injured employee has the right to choose his or her own pharmacy or pharmacist for purposes of medicines required under workers' compensation.

-----  
Explanation:

Matter added to current law appears in ***bold italics***.

Matter removed from current law appears [~~in brackets and struck through.~~]

Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

CHAPTER 95  
SB 95 – FINAL VERSION

03/21/13 0867s

13-0887  
01/10

STATE OF NEW HAMPSHIRE

*In the Year of Our Lord Two Thousand Thirteen*

AN ACT relative to choice of pharmacy under workers' compensation.

*Be it Enacted by the Senate and House of Representatives in General Court convened:*

1 95:1 New Paragraph; Workers' Compensation; Pharmacy Choice. Amend RSA 281-A:23 by  
2 inserting after paragraph VI the following new paragraph:

3 VII. An injured employee shall have the right to select his or her own pharmacy or  
4 pharmacist for dispensing and filling prescriptions for medicines required under this chapter.

5 95:2 Effective Date. This act shall take effect January 1, 2014.

6 Approved: June 20, 2013

7 Effective Date: January 1, 2014



# Amendments

Sen. Carson, Dist. 14  
February 14, 2013  
2013-0387s  
01/04

Amendment to SB 95

1 Amend the introductory paragraph of RSA 281-A:23, VIII(b) as inserted by section 1 of the bill by  
2 replacing it with the following:

3  
4 (b) The insurance carrier shall reimburse the health care provider or pharmacy  
5 processing agent for prescription drugs using a pre-negotiated or contractual reimbursement rate, or  
6 the fee established by the following formulas based on the average wholesale price (AWP) as  
7 reported by a nationally recognized pharmaceutical price guide or other publication of  
8 pharmaceutical pricing data in effect on the day the prescription is dispensed; provided that no  
9 reimbursement shall exceed the reimbursement rate arrived at using this formula:

or in the absence  
of such pre-negotiated or  
contractual reimbursement rate



2013-0387s

AMENDED ANALYSIS

This bill establishes that an injured employee has the right to choose his or her own pharmacy or pharmacist for purposes of medicines required under workers' compensation. This bill also establishes pharmacy fee formula caps for reimbursement for prescription drugs required under RSA 281-A.



Sen. Bradley, Dist. 3  
March 8, 2013  
2013-0813s  
01/09

Amendment to SB 95

1 Amend the bill by replacing section 1 with the following:

2

3 1 New Paragraph; Workers' Compensation; Pharmacy Choice. Amend RSA 281-A:23 by  
4 inserting after paragraph VI the following new paragraph:

5 VII. An injured employee shall have the right to select his or her own pharmacy or  
6 pharmacist for dispensing and filling prescriptions for medicines required under this chapter.



2013-0813s

AMENDED ANALYSIS

This bill establishes that an injured employee has the right to choose his or her own pharmacy or pharmacist for purposes of medicines required under workers' compensation.

Commerce  
March 12, 2013  
2013-0867s  
01/09



Amendment to SB 95

1 Amend the bill by replacing section 1 with the following:

2

3 1 New Paragraph; Workers' Compensation; Pharmacy Choice. Amend RSA 281-A:23 by  
4 inserting after paragraph VI the following new paragraph:

5 VII. An injured employee shall have the right to select his or her own pharmacy or  
6 pharmacist for dispensing and filling prescriptions for medicines required under this chapter.



2013-0867s

AMENDED ANALYSIS

This bill establishes that an injured employee has the right to choose his or her own pharmacy or pharmacist for purposes of medicines required under workers' compensation.

# Committee Minutes



**SENATE CALENDAR NOTICE**  
**COMMERCE**

Senator Andy Sanborn Chairman  
Senator Jeb Bradley V Chairman  
Senator Sam Cataldo  
Senator Andrew Hosmer  
Senator David Pierce

For Use by Senate Clerk's Office ONLY	
<input type="checkbox"/>	Bill Status
<input type="checkbox"/>	Docket
<input type="checkbox"/>	Calendar
Proof: <input type="checkbox"/>	Calendar <input type="checkbox"/> Bill Status

Date: **January 30, 2013**

**HEARINGS**

**Tuesday**

**2/12/2013**

COMMERCE

LOB 101

1:00 PM

(Name of Committee)

(Place)

(Time)

**EXECUTIVE SESSION MAY FOLLOW**

1:00 PM	SB114	regulating guaranteed price plans and prepaid contracts for heating oil, kerosene, or liquefied petroleum gas.
1:20 PM	SB143-FN	relative to benefits for unemployed persons who are attempting to establish a business.
1:40 PM	SB147-FN	relative to prescription drugs in workers' compensation cases.
2:00 PM	SB95	relative to choice of pharmacy under workers' compensation.
2:20 PM	SB117-FN	relative to pharmacy benefits managers.

**Sponsors:**

**SB114**

Sen. Molly Kelly  
Rep. Donna Schlachman

Sen. Martha Fuller Clark

Sen. David Boutin

Sen. Lou D'Allesandro

**SB143-FN**

Sen. Sylvia Larsen  
Sen. Andrew Hosmer  
Sen. Martha Fuller Clark  
Rep. Edward Butler

Sen. Jeff Woodburn  
Sen. Molly Kelly  
Sen. Lou D'Allesandro  
Rep. Jeffrey Goley

Sen. David Watters  
Sen. Peggy Gilmour  
Sen. Bob Odell  
Sen. David Boutin

Sen. David Pierce  
Sen. Bette Lasky  
Sen. Donna Soucy

**SB147-FN**

Sen. Lou D'Allesandro

**SB95**

Sen. Sharon Carson

Rep. Jeffrey Goley

Rep. Robert Theberge

Rep. Daniel Eaton

**SB117-FN**

Sen. Donna Soucy

Patrick Murphy 271-8631

Sen. Andy Sanborn  
Chairman

# SENATE COMMERCE COMMITTEE

*Patrick Murphy, Legislative Aide*

## **SB 95 relative to choice of pharmacy under workers' compensation.**

**Hearing Date:** February 12, 2013

**Time Opened:** 2:44 P.M.

**Time Closed:** 3:14 P.M.

### **Members of the Committee Present:**

Senator Sanborn, Senator Bradley, Senator Cataldo, Senator Hosmer, Senator Pierce

### **Members of the Committee Absent:** None

**Bill Analysis:** This bill establishes that an injured employee has the right to choose his or her own pharmacy or pharmacist for the purposes of medicines required under workers' compensation. This bill also establishes pharmacy fee formulas for reimbursement for prescription drugs required under RSA 281-A.

---

**Sponsors:** Sen. Carson, Dist 14; Rep. Goley, Hills 8; Rep. Theberge, Coos 3; Rep. D. Eaton, Ches 3

**Who supports the bill:** Senator Carson, Dist 14; Michael Reynolds, NH SEA; George Cayer and Mike Cikacz, Injured Workers Pharmacy; Ryan Hale and Pete Shefter, NH Auto Dealers Association; Atty. Maureen Manning, injured workers

**Who opposes the bill:** Bob Nash, NH Insurance Agents Association; George Roussos, NH Association of Insurance Companies, AIA

### **Summary of testimony presented in support:**

Senator Carson, Dist 14

- This bill establishes that an injured employee has the right to choose his or her own pharmacy or pharmacist for the purposes of medicines required under workers' compensation. This bill also establishes pharmacy fee formulas for reimbursement for prescription drugs required under RSA 281-A.
- NH is currently one of the top 10 highest premium states in the country. Nationally, premium rates are declining. NH's claims frequency is the lowest in the region at 4,244 claims in 2010.
- NH total payouts in benefits for 2010 were \$237,168. Only eight states and Washington D.C. paid less in benefits than NH.

Ryan Hale, NH Auto Dealers Association

- Supports the reimbursement fee schedule.

Mike Cikacz, Injured Workers Pharmacy

- This bill will provide needed stability in pricing. The reimbursement fee cap will address the cost issue and prevent excessive prices.

George Cayer, Injured Workers Pharmacy

- Single source generic medications can be expensive, multi-source generic medications are cheaper. Supports the fee schedule and freedom to select your own pharmacy.

Michael Reynolds, NH SEA

- Strongly supports the freedom to choose your own pharmacy. This bill will provide stability.

Atty. Maureen Manning, injured workers

- This clarifies that employees have the freedom to choose their pharmacy. Current practice really doesn't provide for free choice. This bill will provide clarity and stability.

**Summary of testimony presented in opposition:**

George Roussos, NH Association of Insurance Companies

- This is protectionist. Why should this industry have price controls but not other industries? This will increase costs in the long run. This will prohibit some contracts that are good and that lower costs.

**Fiscal Note:** None

**Future Action:** Pending.

# Speakers







# Testimony



## Overview of New Hampshire Workers' Compensation Market

### New Hampshire – One of the Top 10 Highest Premium States in the Country

According to the Oregon Dept. of Consumer & Business Affairs, New Hampshire's workers' compensation premium rates averaged 9th in the nation in 2012. With an index rate of \$2.49 per \$100 of payroll, New Hampshire employers are paying substantially more than the average national rate. See: [http://www.cbs.state.or.us/external/dir/wc\\_cost/files/report\\_summary.pdf](http://www.cbs.state.or.us/external/dir/wc_cost/files/report_summary.pdf)

- Iowa and North Carolina are both rank 25<sup>th</sup>, with an average index rate of 1.90.
- The rate difference between the New Hampshire and these two states is \$.59.

Additionally, when compared to the average index rates of the other states in New England (CT, ME, MA, NH, RI & VT), as categorized by the U.S. Census Bureau, New Hampshire's index rate is HIGHER (2.13).

- NCCI often cherry picks states for comparisons purposes. The categorization of states included in this analysis (CT, ME, MA, NH, RI & VT) is provided by the U.S. Census Bureau. See: [https://www.census.gov/geo/www/us\\_regdiv.pdf](https://www.census.gov/geo/www/us_regdiv.pdf)

### Nationally Premium Rates are Declining

Nationally, workers' compensation premiums for private carriers are down 1.3% in 2010 to 29.9 billion. See: <http://websrvr92va.audiovideoweb.com/va92web25048/sotl2011/sotl2011.html>

- This is the fourth straight year premium rates have declined: 2007 (37.6%), 2008 (33.8%), 2009 (30.3%).
- State funds are also down: 2007 (44.3%), 2008 (39.3%), 2009 (34.6), 2010 (33.8%).

### New Hampshire's Claims Frequency is Lowest in the Region

According to NCCI, claim frequency in New Hampshire "increased in 2010" and as "is a key cost driver in New Hampshire." See: [https://www.ncci.com/documents/SAF\\_nh.pdf](https://www.ncci.com/documents/SAF_nh.pdf)

However, when frequency per 100,000 workers is compared to other states in the region, New Hampshire's average claim frequency is the LOWEST for combined lost time and medical. See: [https://www.ncci.com/documents/SAF\\_nh.pdf](https://www.ncci.com/documents/SAF_nh.pdf) (p. 64)

- NH – 4,244
- CT – 4,248
- ME – 5,898
- RI – 4,583

## **Medical Costs on a slight DECLINE Nationally**

According to NASI “the total benefits (cash plus medical) were 0.07 percent LOWER in 2010 than in 2009. Furthermore,

- “this DECREASE in total benefit payments was solely due to a decrease in medical benefits of 2.1 percent, because cash benefits increase by 0.7 percent.”
- “ In 2010, the share of medical benefits DECLINED slightly to 48.8 percent of total benefits.”

## **Combined Ratio (Profitability) in New Hampshire Increase**

Combined ratio is a measure of the profitability of an insurance company. The combined ratio equals expenses and losses divided by revenue from premiums. The result is expressed as a percentage, and a value greater than 100% means the company is paying out more than it's taking in, and a value less than 100% means it is taking in more than it is are paying out.

NCCI reports that New Hampshire’s accident year combined ratios have remain high. (2007: 105.8%, 2008: 109.1%, 2009: 120.7%, 2010: 119%, 2011: 130.1%) See: page 36 at: [https://www.ncci.com/documents/SAF\\_nh.pdf](https://www.ncci.com/documents/SAF_nh.pdf)

According to NCCI, only 15 states had higher combined ratios in 2010 (IN, UT, IL, IA, SC, FL, KY, MS, RI, LA, MD, AZ, CO, CT, OR)

See page 36 at: [https://www.ncci.com/documents/SAF\\_nh.pdf](https://www.ncci.com/documents/SAF_nh.pdf)

## **Workers’ Compensation Investment Returns Are Up Nationally**

Investment income (gain on insurance transaction-to-premium ratio for private carriers) is up three points from previous year, nationally for workers compensation. (2007: 12.7%, 2008: 9.7%, 2009: 10.8% and 2010: 14%) See: <http://webrvr92va.audiovideoweb.com/va92web25048/sotl2011/sotl2011.html>

## **Nationally Employer Workers’ Compensation Costs Trend Down**

According to a recent presentation by NCCI, workers’ compensation employer costs as a percentage of total compensation has been trending DOWN from 1.7% in 2000 to 1.6% in 2010 in the last decade. See: <http://webrvr92va.audiovideoweb.com/va92web25048/sotl2011/sotl2011.html>

- VT – 4,511
- MA – (data not included in NCCI analysis)

### **Claims Frequency Nationwide is Decreasing**

Claim frequency, countrywide declined in 2011. NCCI reports, “a cumulative change of -55.5% from 1991 – 2010.” See: p. 59 at: [https://www.ncci.com/documents/SAF\\_nh.pdf](https://www.ncci.com/documents/SAF_nh.pdf)

### **Workers' Compensation Benefits Per \$100 of Covered Wages in New Hampshire**

According to a report recently released by the National Academy of Social Sciences (NASI), *Workers' Compensation Benefits, Coverage & Costs*, (Table 10) 33 states paid more in workers' compensation benefits per \$100 of covered wages than New Hampshire (\$0.88) in 2010.

These states are: AL (\$0.95), AK (1.57), CA (1.25), DE (1.11), FL (0.93), HI (1.09), GA (0.92), HI (1.10), ID (1.21), IL (1.10), IA (1.05), KY (1.02), LA (1.14), ME (1.24), MN (0.89), MS (1.01), MT (1.95), NE (0.98), NV (0.94), NJ (0.97), NM (1.01), NY (0.93), NC (0.90), OH (1.14), OK (1.66), OR (0.98), PA (1.20), SC (1.45), VT (1.25), WA (1.25), WV (1.25), WI (1.25), & WY (1.25)

See: <http://www.nasi.org/research/2012/report-workers-compensation-benefits-coverage-costs-2010>

### **Total Benefits Paid in New Hampshire**

Table 9 provides state specific payout data for medical, cash and total benefits. The total benefits for New Hampshire in 2010 were a mere \$237,168.

- This is less than total benefits paid in the following 41 states: AL (629,069), AZ (698,459), CA (9,396,443), CO (809,707), CT (788,701), FL (2,526,580), GA (1,410,753), HI (242,400), ID (245,622), IL (2,916,379), IN (603,193), IA (554,973), KS (407,776), KY (650,701), LA (839,821), ME (253,872), MD (953,533), MA (1,013,343), MI (1,271,892), MN (1,038,272), MS (337,633), MO (811,427), MT (266,850), NE (313,066), NV (429,686), NJ (1,999,801), NM (276,697), NY (4,606,295), NC (1,316,291), OH (2,268,515), OK (845,726), OR (633,054), PA (2,909,341), SC (891,283), TN (782,091), TX (1,483,708), UT (257,522), VA (790,025), & WA (2,308,748), WV (362,375), WI (1,070,534).
- Only 8 states and D.C. paid less in benefits than New Hampshire: AK (221,327), AR (204,066), DE (211,921), D.C. (105,636), ND (114,985), RI (160,105), SD (100,348), VT (138,370), WY (163,497).

See: <http://www.nasi.org/research/2012/report-workers-compensation-benefits-coverage-costs-2010>

# CASE STUDY

## THE SITUATION

Steve Popovsky, 40, from Bensalem, Pennsylvania was involved in a serious hit-and-run accident while on the job as a fiber optic service technician. Not only did the accident cause Steve to lose a finger and suffer a herniated lumbar disk—both of which would require many reconstructive surgical procedures to repair—the most lasting injury from the accident has been Post-Traumatic Stress Disorder (PTSD). He paid over \$1,000 just in co-pays for his prescriptions while waiting for the County Crime Victims Assistance program to refund his medication expenses.

## A BAD SITUATION GETS WORSE

Unfortunately for Steve, charges were never filed against the driver in the hit-and-run accident that left him with these lifelong injuries, and therefore he never received any monetary award for damages that would have helped pay for reimbursement of his prescription expenses. Steve eventually contacted the Pennsylvania Federation of Injured Workers (PFIW), an advocacy group that is sponsored by many of the unions in Pennsylvania. The PFIW immediately referred Steve to IWP.

## THE IWP SOLUTION

Within 36 hours of making the call to IWP and signing on as an IWP patient, Steve received the prescriptions he needed. Since his PTSD will need to be continually treated throughout his life, the timeliness in which he receives his medications is imperative.

“IWP has been a lifeline,” says Steve, who has recommended IWP to several fellow union members. Steve recently went on a Saturday to a local pharmacy to fill an allergy medicine. “I was there for over an hour, and in the end I couldn’t get the prescription until Monday. They had to call one of their other pharmacies to fill it. I wouldn’t be able to go through that with my other prescriptions.”

“It is beyond my understanding as to how IWP is able to provide this service. They have outstanding customer service and are so easy to use. They are a stable, reliable source.”

# CASE STUDY

## SITUATION

Scott Vanderpool, 40 years old and a former appliance driver/ installer, lives in Milwaukee, Wisconsin with his girlfriend and 2-year-old daughter. On November 9, 2007, Scott was injured on the job while hauling a 700-pound refrigerator up five flights of stairs. The strain on his spine caused injuries to two discs in his lower back as well as his neck. Because his injury will prevent Scott from returning to his physically demanding job, he has since enrolled in technical school in search of a new career.

## THE FINANCIAL PROBLEM

The expensive medications Scott needed to help him cope with his injury combined with being out of work put Scott and his family into a tough financial situation. He needed a way to get the medication he needed without putting his family at risk.

## THE IWP SOLUTION

Knowing Scott's financial situation and the importance of medication in his recovery, Scott was referred to IWP by his doctor, Dr. William Stewart, at Midwest Rehab Associates.

"IWP has been very good to me. Every time I have called with questions, the people at IWP have been extremely helpful and answered all my questions; they have even called my doctors when they needed more information. I am really amazed by how IWP works. They take care of everything."

# CASE STUDY

## SITUATION

Richard Clark, 54, was forced to retire from his factory job in March 2005 after suffering an injury on the job. While performing the daily closing task of “skimming the pan,” the apparatus broke, leaving Richard with injuries that would force him into early retirement.

## THE PROBLEM

Richard needed a convenient and easy way to get his prescriptions without having to incur any out-of-pocket expenses, so his physician, Dr. William Stewart, recommended IWP. Richard has been using IWP since 2005.

## THE IWP SOLUTION

“I’ve had a great experience with IWP. They work extremely well with my Doctor and, as long as I call my prescriptions in on time, I get them on time. IWP is very convenient. I had no idea IWP existed, I don’t think many people do. They are an excellent organization and I think more people would use them if they knew about them.”

# CASE STUDY

## SITUATION

Matthew Kerrins, a 58-year-old high school teacher from Westbury, NY, was injured in a car accident on the way to a mandated work function in 2002. He initially suffered from whiplash and was treated and discharged from the hospital that same day. Unfortunately Matthew's medical problems were hidden just below the surface. Shortly after the accident, and multiple visits to his primary care doctor and orthopedic surgeons, Matthew found out he had a herniated disk and would require physical therapy three times a week. He was put on muscle relaxers and pain relief medicine for the painful spasms he would experience. Matthew was unable to lift things or turn his neck; for a while he could not even drive.

## A LIFE ON HOLD

At the time of his accident Matthew was in the middle of pursuing his master's degree in special education. After the accident he was forced to discontinue his education due to his many doctor's appointments and physical therapy sessions. Matthew was also forced to resign from teaching, a profession he had been in for over 20 years, when he was not able to meet the credit requirements to teach. For two years Matthew was receiving his prescriptions, and paying the co-pays, at his local pharmacy. It was only after Matthew was forced to stop driving did his neurologist, Dr. Cohen, introduce Matthew to IWP. Matthew quickly made the switch.

## THE IWP SOLUTION

Since Matthew's mobility was limited during the time he was unable to drive, IWP eliminated the hassle of having to go to the pharmacy to get his prescriptions. "I'm just so grateful that it was one thing less I had to take care of," Matthew recalls. "I had been going through the standard way of getting my prescriptions, and then I made the connection with IWP. It made everything much easier and more comfortable.

Shortly after joining IWP Matthew returned to his passion, teaching. He switched to teaching in a public school and eventually worked his way back up to full-time teaching. After a few years of teaching full-time, Matthew decided to go back to school himself, to complete the master's degree he began pursuing before the accident. "I credit this to IWP," says Matthew.

"I'm a happy person, and a healthier person because of IWP. Everything I have needed, I have gotten through IWP, immediately in the next day's mail. I am one hundred percent pleased and satisfied. I think of them as a friend, a concerned party who cares about me. They are good people. This is an opportunity that shouldn't be overlooked."

# CASE STUDY

## SITUATION

Frank Senick, 38 years old and a former auto mechanic, lives in Bristol, CT with his wife and two children, a 12-year-old daughter and an eight-year-old son. Eight years ago Frank's life changed forever. He was injured at work, slipping on spilled oil and suffering a painful and debilitating back injury that is not healed today and probably never will be. After months of therapy, he has been through three back surgeries. Today he is mobile only with the help of a walker or a wheelchair. He is no longer able to drive.

## THE FAILED PHARMACY

"After my injury I couldn't drive, so I wasn't able to get to the pharmacy on my own," Frank recalls. "When I did get there, it seemed like there was always a problem with my prescription. Either it wasn't ready or they said I had to pay for it because the insurance carrier wouldn't. Finally, after going through one hassle after another, my attorney suggested I try IWP."

## THE IWP SOLUTION

"I was my attorney's first client to use IWP and it has worked out better than either of us thought it could," says Frank. "It gave me the peace of mind of knowing I would get my prescriptions without a hassle, and it gave my attorney the time it took to work on my case instead of taking calls from me because I couldn't get my medications.

"After a while, they (the insurance carrier) didn't want me using IWP. They wanted me to set up a system with a local pharmacy. I tried to help them by using the local pharmacy; I don't know why. It didn't work out. I decided I wanted to stay with IWP because I had no problems with them. If my doctor says I need a prescription, they give it to me. Their attitude is 'Let's make sure this patient gets what he needs.' And they were able to deliver right to my house, so I never had to worry about getting a ride to the pharmacy.

"I didn't believe it at first, and I'm not sure my attorney did either. But we just said, 'let's give it a shot.' After that I never saw a bill. And I was not aware they didn't get paid (by the insurance carrier) right away. The amount of money they put up for me while they waited to get paid was unbelievable. They just kept putting it on the line for me every time there was a new prescription. When I found out how much money they put up for me it touched me, it really did. For someone to do that, it was a huge relief.

"I've gone through a lot of trial and error to see what medications are best for my body. Without IWP, I might have just given up and never found the medications that have helped me. The people at IWP are great. They are always able to answer my questions. I don't know how I would have gotten along without them."



# CASE STUDY

## SITUATION

Christina Thompson, 54 of Dayton, Ohio, was injured at her job for a grocery company and was left with a chronic pain condition that has since forced her to leave work. In addition to her chronic pain condition, Christina also developed depression as a result of her injury. Christina's prescriptions cost around \$1,000 a month, a burdensome cost incurred when her self-insured employer reviewed Christina's claim and decided she did not need to be taking these medications. Unable to work and living on a fixed income, Christina had a difficult decision to make: continue improving her health while taking her medications but pay for them out of her own pocket, or cease taking her, much needed, prescriptions.

## SEVEN LONG MONTHS

While at a session with her psychiatrist, Christina's doctor suggested IWP. Immediately, IWP began working with Christina's attorney and her insurance company. It would take seven long months, and a series of appeals, to get Christina's claim approved. At \$1,000 a month, for seven months, Christina would have had to spend over \$7,000 just to continue her medications.

## THE IWP SOLUTION

Those seven months could have cost Christina \$7,000 in prescriptions, but IWP simultaneously provided Christina with the prescriptions she needed, while also dealing with the lengthy legal process.

"Having IWP and not having to worry about that [the legal appeal] aspect of it made a world of difference. It's very stressful to deal with the independent medical evaluations and the employer refusing to pay. I would not have been able to afford my medicines during those seven months had it not been for IWP."

"Because of IWP, and the way they are set up, I was able to continue taking my medications and stay focused on my health, rather than deal with the stress. I didn't have to put my health on hold while waiting for the insurance company to come through. They saved me."

Christina is now recommending IWP to other physicians and telling other people in her situation about this wonderful option. "There is so much I could say, their customer care is wonderful, always very willing to answer my questions and help me in any way that they can. They were the light at the end of the tunnel."

# Pharmacy Benefit Managers (PBMs) in New Hampshire

All New Hampshire employers and insurers can utilize the services of a PBM or other entity to manage and negotiate pharmacy services and prices.

## IWP statistics show:

- A total of 66 insurers and self-insured are providing prescription coverage for injured workers using IWP.
- Of those, 48 insurers utilize either a PBM or some other third party to manage pharmacy claims.
- Of the 11 insurers that do not have a third party processor or PBM, only 6 insurers have not negotiated reduced fees with IWP.

## Key questions:

- Why does New Hampshire need to mandate the use of PBMs when they are already heavily utilized by insurance carriers in the state?
- How does a PBM make money?
- How can the promoters of the PBM mandate prove cost savings and that those supposed cost savings aren't at the expense of the injured worker?
- Define the problem that needs to be fixed.

Presented by:

# IWP

*The Patient Advocate Pharmacy*



[Back to News](#) | [Print News](#)

State: NH

Frequency and Medical Costs Fueling Minor Increase in Loss Costs: EAST [2012-09-19]

An uptick in claims frequency and higher-than-average medical costs are driving a call by the National Council on Compensation Insurance (NCCI) to increase New Hampshire workers' compensation loss costs by 0.6%, effective Jan. 1.

The Boca Raton, Fla.-based rate maker held its annual State Advisory Forum in New Hampshire last week and reported that the number of lost-time claims per million dollars of on-leveled premium increased slightly in 2010, following steady declines since 2000.

NCCI reported that claim frequency reached 18 claims per million dollars of on-leveled premium in 2010. Average medical costs per claim declined slightly – to \$36,600 – in 2010 but had increased steadily since 2000, NCCI said.

NCCI said medical costs comprise 73% of all workers' compensation benefits paid in New Hampshire, compared to a countrywide average of 59%. NCCI said medical costs in New Hampshire are generally increasing faster than the national average and comprise a higher share of costs for permanent partial disability (PPD) claims.

New Hampshire Insurance Commissioner Roger Sevigny has not issued a decision on the requested loss-cost increase.

If the filing is approved, loss costs in the construction sector would increase by 2.8%, and loss costs in the goods-and-services sector would increase by 0.2%. Loss costs in the manufacturing sector would decrease by 0.3%.

The NCCI annual report on New Hampshire is [here](#).

Source: NCCI

# IWP

*The Patient Advocate Pharmacy\**

Contrary to popular belief, a state mandated Pharmacy Benefits Manager (PBM) would not necessarily translate into cost savings for New Hampshire. In reality, PBMs offer very little in the way of pricing transparency; so much so, in fact, that many states have introduced legislation to require it. We challenge any PBM to reveal its pricing structure so that the alleged cost savings can be evaluated.

Injured Workers Pharmacy (IWP) has been operating in the state of New Hampshire since 2003, providing hassle-free prescription assistance to thousands of injured workers. Under state law, pharmacies are allowed to bill insurance carriers at the Usual & Customary (U & C) rate; however **IWP, on average, accepts a discount of almost 39% off of its total billings from the more than 50 carriers it works with on a regular basis in the state of New Hampshire.** In fact, the discounts offered to carriers range from 16% to 78% off of the U & C rate. The range of discounts offered to carriers and self-insured payers are based on several important criteria: prompt payment, complete payment and anti-poaching protection. However, IWP consistently has problems with carriers and the self-insured underpaying invoices thus creating additional work around collection efforts which ultimately results in short pays by those responsible for providing medical benefits to the injured worker.

A closer look into the manner in which IWP operates within the state of New Hampshire reveals a company willing to operate outside the "traditional" pharmacy pricing model so that the needs of the injured worker can be best served. In the interest of true transparency, IWP presents its operations to date in the state of New Hampshire:

- On average, 78% of IWP's invoicing is discounted from its U & C rate
  - 75% of prescriptions provided by IWP in 2011 were discounted at rates averaging 22%
  - 74% of IWP patients who received medication were billed at this discounted rate
- In 2011, on average, 27% of the new cases presented to IWP were in legal dispute
  - 82% of those were ultimately decided in favor of the patient and IWP
  - Disputed cases typically take more than 1 year for settlement and ultimate reimbursement of prescription expense, however, they continue to follow the pattern of short payment and collection delay
  - ***This translates into an interest-free loan, with further protection against wrongful lawsuits for withholding necessary medication***
- In 2011, through its Continuity of Care program, IWP has been able to convert 66% of all prescriptions to generic through the use of A/B equivalent medications, and when not available therapeutically equivalent alternatives
  - Working with patients, physicians and attorneys, IWP has been able to convert 26 prescriptions from brand to generic per month
  - Every prescription that typically would have been provided as brand, but as been converted to generic, represents a cost savings of \$299 per prescription
  - ***This translates into an annualized cost savings of over \$92,000.00 for the carriers and self-insured***
  - Over the typical 5-10 year lifetime of patient, this represents up to \$920,000 in savings for the carriers and self-insured

Despite short pays, write-offs, additional expenses and lengthy collection cycles, IWP continues to provide quality prescriptions services that exceed those of any other pharmacy as proven by an independent study conducted by IGS. IWP has been given a Net Promoter Score (NPS) of 95%, placing its customer service capabilities in the upper echelon of all businesses operating in the United States.

*"Live Free or Die"*



**Business and Industry Association**  
New Hampshire's Statewide Chamber of Commerce

122 North Main Street, Concord, NH 03301  
Tel: 603.224.5388 • Fax: 603.224.2872 • Web: [www.nhbia.org](http://www.nhbia.org)

March 11, 2013

Dear Senator Pierce:

I am writing to let you know the BIA is concerned that passing SB 95 will lead to higher workers' compensation rates for New Hampshire employers. Among the many bills this legislative session, SB 95 did not come to our attention until after the public hearing. Thus we did not express our concerns at that time. However since then, we have received information from NH Insurance Department staff indicating they believe SB 95 will increase costs.

One workers' comp carrier compared the actual 2012 NH prescription costs with the formula proposed in SB 95 and found the new formula would increase costs by more than \$400,000. I have included the carrier's chart demonstrating this:

Count of Scripts	Retail Price	Proposed Fee	Difference
15,032	\$ 3,261,378.64	\$ 3,692,006.31	\$ 430,627.67

Finally, I have enclosed a chart showing how other states around the country address this issue. You will note that of those states that have implemented a fee schedule for prescriptions, almost all formulas are lower, in some cases far lower, than what SB 95 calls for.

For these reasons, the BIA asks you to oppose SB 95. Workers' compensation costs are already high in New Hampshire. SB 95 will push them even higher.

Respectfully,

David A. Juvet  
Senior Vice President

cc: Senator Peter Bragdon  
Senator Sylvia Larson

STATE	Fee Schedule
Alabama	Brand = AWP + 5% + \$8.68 Generic = AWP + 5% + 11.28 Effective: 1/1/2013
Alaska	Lesser of: U&C or Brand = (AWP) + 20% Generic = (AWP) + 25% Effective 12/1/2004
Arizona	Brand = (AWP) - 5% + \$7.00 Generic = (AWP) - 15% + \$7.00 or Contracted Rate Effective 10/1/2009
Arkansas	Lesser of: Provider's usual charge, MCO/PPO contracted price or Brand=(AWP) + \$5.13 Generic= (AWP) + \$5.13 Effective 9/1/1994
California	Lesser of: Estimated Acquisition Cost (+ \$7.25 dispense fee) or U&C EAC (Brand and Generic) is lowest of: AWP - 17% (until AAC determined) or AAC or FUL or MAIC or the charge to the general public Effective 9/1/2004
Colorado	Brand=(AWP) + \$4.00 Generic= (AWP) + \$4.00 Effective 1/1/2006
Connecticut	Brand=(AWP) + \$5.00 Generic= (AWP) + \$8.00 Effective 4/1/2005
DC	No Fee Schedule
Delaware	Lesser of: Actual Charge or Brand=(AWP) Generic= (AWP) Effective 6/1/2009
Florida	Lesser of: Negotiated/Contracted Rate or: Brand=(AWP) + \$4.18 Generic= (AWP) + \$4.18 Effective 10/1/2003
Georgia	Brand=(AWP) + \$4.11 Generic= (AWP) + \$6.15 Effective 4/1/2011
Hawaii	Brand=(AWP) + 40% Generic= (AWP) + 40% Effective 1/1/1996
Idaho	Lesser of: Usual charge or 90th percentile, determined by commission, of Idaho Provider's U&C

Illinois	Negotiated rate or Lesser of: U&C or F/S (No pharm F/S)
Indiana	80th percentile of IN Community charges
Iowa	No Fee Schedule
Kansas	Lesser of: U&C or Brand=(AWP) - 10% + \$3.00 Generic= (AWP) - 15% + \$5.00 Effective 1/1/2010
Kentucky	Brand=(AWP) +\$5.00 Generic= (AWP) + \$5.00 Effective 7/15/1999
Louisiana	Lesser of: Provider's usual charge or Provider/insurer contracted charge or Brand=(AWP) + 10% + \$5.77 Generic= (AWP) + 40% + \$5.77 Effective 8/1/1994
Maine	No Fee Schedule
Maryland	No Fee Schedule
Massachusetts	Brand: Lowest of Estimated Acquisition Cost + \$3 or usual and customary charge Generic: Lowest of (Federal Upper Limit, MA Upper Limit, Estimated Acquisition Cost) + \$3 or usual and customary charge EAC=WAC+5% determined to be AWP-16%
Michigan	Brand = AWP - 10% + \$3.50 Generic = AWP - 10% + \$5.50 Effective 2/29/2008
Minnesota	lesser of: Brand: (AWP-12%) + \$3.65 Generic: (AWP-12%) + \$3.65; or MAC + \$3.65; or Usual and Customary  <u>Paper Bills.</u> lesser of: U&C or Brand: (AWP) + \$5.14 Generic: (AWP) + \$5.14 Effective April 8, 2006
Mississippi	Brand=(AWP) + \$5.00 Generic= (AWP) + \$5.00 Effective 7/1/2010
Missouri	No Fee Schedule
Montana	Lesser of: Price charged or Brand = AWP - 10% + \$3.00 Generic = AWP - 25% + \$3.00 Effective 12/7/2007
Nebraska	No Fee Schedule

Nevada	<p>Lesser of:  U&amp;C, unless agreement or  Brand=(AWP) + \$9.77  Generic=(AWP) + \$9.77  Effective 2/1/2013</p>
New Hampshire	No Fee Schedule
New Jersey	No Fee Schedule
New Mexico	<p>Lesser of:  U&amp;C or  Brand=(AWP) - 10% + \$5.00  Generic= (AWP) -10% + \$5.00  Effective 12/31/2012</p>
New York	<p>Brand = (AWP) - 12% + \$4.00  Generic = (AWP) - 20% + \$5.00  Effective 7/9/2008</p>
North Carolina	No Fee Schedule
North Dakota	<p>Brand=(WAC) + 8% + \$4.00  Generic=Lesser of: (MAC) + 5% or (WAC) + 8% + \$5.00  Effective 1/1/11</p>
Ohio	<p>Lesser of: U&amp;C or Brand and Generic = (AWP) - 9% + \$3.50</p> <p>Self-Insured with Direct contract with Pharmacy provider with Point-of-Service Adjudication</p> <p>Brand = Pharmacy U&amp;C or AWP - 9% + \$3.50  Generic = The lesser of CMS FUL + \$3.50, ACS MAC + \$3.50, or (AWP) - 9% + \$3.50 or pharmacy U &amp; C  Effective 1/1/07</p> <p>State Funded Claims</p> <p>Brand=(AWP) - 9% + \$3.50  Generic= (AWP) -9% + \$3.50  Effective 1/1/2011</p>
Oklahoma	<p>Lesser of:  U&amp;C or  Brand=(AWP) - 10% + \$5.00  Generic= (AWP) - 10% + \$5.00  Effective 7/1/2005</p>
Oregon	<p>Lesser of:  U&amp;C or  DAW1 = Brand(AWP) - 16.5% + \$2.00  DAW2 = AVG Generic (AWP) - 16.5% + \$2.00  Generic=(AWP) - 16.5% + \$2.00  Effective 7/1/2008</p>
Pennsylvania	<p>Brand=(AWP) + 10%  Generic= (AWP) + 10%  Effective 8/1993</p>
Rhode Island	<p>Brand=(AWP) + 20%  Generic= (AWP) + 20%  Effective 7/1/2001</p>



South Carolina	<p>Lesser of:  U&amp;C  Brand = (AWP) + \$5.00  Generic = (AWP) + \$5.00  Effective 7/1/2010</p>
South Dakota	<p>Providers U&amp;C</p>
Tennessee	<p>Lesser of:  U&amp;C or  Negotiated Contract Amount or  Brand=(AWP) + \$5.10  Generic=(AWP) + \$5.10  Effective 7/1/2005</p>
Texas	<p>Brand=(AWP) + 9% + \$4.00  Generic= (AWP) + 25% + \$4.00  Effective 3/1/2002</p>
Utah	<p>No Fee Schedule</p>
Vermont	<p>Lesser of:  Provider's Charge or  Brand=(AWP) + \$3.15  Generic= (AWP) + \$3.15  Effective 4/15/1998</p>
Virginia	<p>No Fee Schedule - Similar charges in VA</p>
Washington	<p>Brand with Generic Substitution =  (AWP) - 10% + \$4.50  Brand (DAW) = AWP - 10% + \$4.50  Generic=(AWP) - 50% + \$4.50  Effective 11-1-2010</p>
West Virginia	<p>No Fee Schedule  Effective 10/15/08</p>
Wisconsin	<p>Brand = (AWP) + \$3.00  Generic = (AWP) + \$3.00  Effective 3/31/2006</p>
Wyoming	<p>Lesser of:  U&amp;C or  Brand = AWP - 10% + \$5.00  Generic = AWP - 10% + \$5.00  or unless allowed paper claims decreased by \$2.50  Effective 8/1/2008</p>
USDOL - Federal DOL	<p>Lesser of:  U&amp;C or  Brand= (AWP- 5%) + \$4.00  Generic = (AWP- 5%) + \$4.00  Effective 9/5/2000</p>

# Committee Report



## Docket of SB95

**Bill Title:** relative to choice of pharmacy under workers' compensation.

*Official Docket of SB95:*

<b>Date</b>	<b>Body</b>	<b>Description</b>
1/3/2013	S	<b><u>Introduced</u></b> and Referred to Commerce; <b><u>SJ 4</u></b>
1/30/2013	S	Hearing: 2/12/13, Room 101, LOB, 2:00 p.m.; <b><u>SC7</u></b>
3/14/2013	S	Committee Report: Ought to Pass with Amendment <b><u>#2013-0867s</u></b> , 3/21/13; Vote 5-0; CC; <b><u>SC12</u></b>
3/21/2013	S	Committee Amendment 0867s, AA, VV;
3/21/2013	S	<b><u>Ought to Pass with Amendment</u></b> 0867s, MA, VV; OT3rdg;
3/27/2013	H	Introduced and Referred to Labor, Industrial and Rehabilitative Services; <b><u>HJ31</u></b> , PG.1075
4/8/2013	H	Public Hearing: 4/23/2013 10:15 AM LOB 307
4/12/2013	H	Executive Session: 4/24/2013 1:00 PM LOB 303 ==Or After the End of House Session==
5/1/2013	H	Committee Report: Ought to Pass for May 8 (Vote 18-0; CC); <b><u>HC36</u></b> , PG.1197
5/8/2013	H	<b><u>Ought to Pass:</u></b> MA VV; <b><u>HJ41</u></b> , PG.1390
5/8/2013	H	Enrolled; <b><u>HJ41</u></b> , PG.1424
5/20/2013	S	Enrolled 5/2/13
6/20/2013	S	Signed by the Governor on 06/20/2013; Chapter 0095; Effective 01/01/2014

# Other Referrals

# COMMITTEE REPORT FILE INVENTORY

SB 95 ORIGINAL REFERRAL \_\_\_\_\_ RE-REFERRAL

1. THIS INVENTORY IS TO BE SIGNED AND DATED BY THE COMMITTEE AIDE AND PLACED INSIDE THE FOLDER AS THE FIRST ITEM IN THE COMMITTEE FILE.
2. PLACE ALL DOCUMENTS IN THE FOLDER FOLLOWING THE INVENTORY IN THE ORDER LISTED.
3. THE DOCUMENTS WHICH HAVE AN "X" BESIDE THEM ARE CONFIRMED AS BEING IN THE FOLDER.
4. THE COMPLETED FILE IS THEN DELIVERED TO THE CALENDAR CLERK.

- DOCKET (Submit only the latest docket found in Bill Status)
- COMMITTEE REPORT
- CALENDAR NOTICE
- HEARING REPORT
- HANDOUTS FROM THE PUBLIC HEARING
- PREPARED TESTIMONY AND OTHER SUBMISSIONS
- SIGN-UP SHEET(S)

ALL AMENDMENTS (passed or not) CONSIDERED BY COMMITTEE:

- AMENDMENT # 0387       - AMENDMENT # 0813s
- AMENDMENT # 0867      \_\_\_\_\_ - AMENDMENT # \_\_\_\_\_

ALL AVAILABLE VERSIONS OF THE BILL:

- AS INTRODUCED      \_\_\_\_\_ AS AMENDED BY THE HOUSE
- FINAL VERSION       AS AMENDED BY THE SENATE

- OTHER (Anything else deemed important but not listed above, such as amended fiscal notes): \_\_\_\_\_

DATE DELIVERED TO SENATE CLERK 7-17-13

PM  
BY COMMITTEE AIDE