

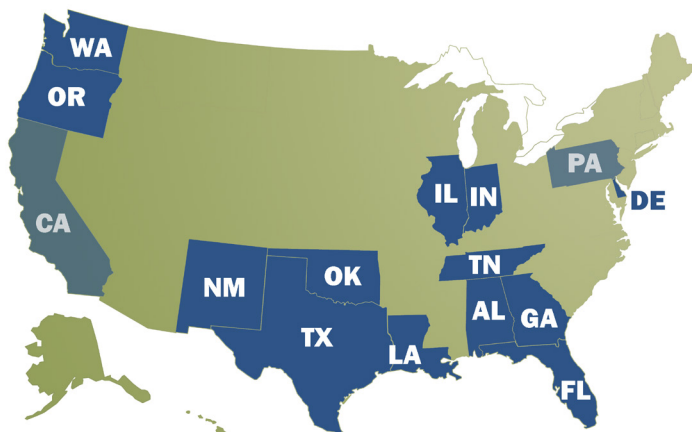
# GENEX StateWatch

## Notice of Regulatory Alerts

Third Quarter 2013

The GENEX Product Management & Development Department is always scanning, reviewing, and analyzing legislation that may impact the products and services that we provide our customers. The purpose of this document is to provide some key highlights on state initiatives that may impact the services we provide. The regulatory update below is for informational purposes only.

### STATES WITH LEGISLATIVE ACTIVITY



### NATIONAL

On **July 11, 2013**, the Centers for Medicare and Medicaid Services issued a technical alert for liability insurance (including self-insurance), no-fault insurance, and workers' compensation as it relates to MMSEA reporting. Two new ICD-9-CM Diagnosis Codes have been added to the list of excluded ICD-9-CM diagnosis codes: 959.8 (Other specified sites, including multiple injury) and 959.9 (Unspecified site injury). As of **October 1, 2013**, these codes will not be accepted in the Alleged Cause of Injury, Incident, or Illness (Field 15) or in any ICD Diagnosis Code field. [Click here for more info.](#)

HIPAA Reminder: "**The Final Omnibus Rule**," which went into effect **March 26, 2013**, made changes to HIPAA, extended direct liability for complying with certain HIPAA security, privacy, and breach notification rules to Business Associates (BAs) of covered entities, has a compliance date of **September 23, 2013**. [To view changes, click here to go to the Federal Register.](#)

### ALABAMA

**SB 215** was adopted and became effective **August 1, 2013**.

This bill provides a new definition for the practice of occupational therapy to now include 1) case management and transition functions, and 2) fitting and training of orthotics and prosthetic devices, assistive technology, and adaptive devices. [Click here for more info.](#)

### CALIFORNIA

#### WATCH LIST

The California Division of Workers' Compensation is accepting comments until **August 19, 2013**, on revised rules to implement a Resource-Based Relative Value Scale (RBRVS) fee schedule. The DWC indicated changes in the proposed rules include:

- Revised maximum reasonable fee formulas to apply average statewide geographic adjustment factors to the work, practice and malpractice expense relative value units
- A separate average statewide geographic adjustment factor will be applied for anesthesia
- Refined transition conversion factors based on an analysis from Rand Corp
- Clarification of rules to determine payment of procedures with status indicator codes C, N, R, or I
- Clarification that "AA" refers to "certified anesthesiologist assistants," as opposed to the "anesthesia assistant" term used by Medicare

The division's proposal would transition to Medicare's RBRVS over a four-year period. In 2017, According to CWCI in an August 12, 2013 WorkCompCentral article, the transition of California's fee schedule to RBRVS will increase physician costs by a cumulative total of \$250.00 million during the next four years, more than twice as much as the increase in annual spending that was noted in a previous study completed

by a consultant for the DWC. CWCI did not dispute the \$104M increase in annual spending by 2017 predicted by the Rand Corporation, but the insurance industry group said Rand did not state the cumulative cost of those increases. [Click here for more info.](#)

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## DELAWARE

**HB 175** was signed into law by Governor Jack Markell on **June 27, 2013**. This law will place stricter controls on workers' compensation medical costs while also making improvements to the state's workplace safety program and encouraging injured individuals to return to work. [Click here for more info.](#)

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## FLORIDA

**SB 662**, regarding repackaged drug reimbursement, was signed into law on **June 7, 2013**, and became effective **July 1, 2013**. Florida repackaged or relabeled drugs will be reimbursed at 112.5% of AWP plus an \$8.00 dispensing fee. This reimbursement methodology is only applicable to drugs repackaged or relabeled by physicians. This does not apply to prescription medication dispensed by pharmacies. The reimbursement for prescription medication will remain the same at AWP plus \$4.18 dispensing fee.

- AWP will be determined based on the published Medispan Drug database.
- All bills must contain the NDC number.
- Reimbursement for less than fee schedule is acceptable if a contract is in place with the provider accepting the lower amount.

[Click here for more info.](#)

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## GEORGIA

**HB 154** became effective **July 1, 2013**. The bill limits the number of weeks that an employer is required to furnish medical care, treatment, and supplies to an injured worker for injuries occurring on or after July 1, 2013, and not designated as catastrophic — to a maximum of 400 weeks from the date of injury. [Click here for more info.](#)

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## ILLINOIS

The state recently revised its PPP (Preferred Provider Program) form in response to issues raised by employers. The form was modified to remove the field that required a signature. The new forms "PPP" and PPPadv" can be accessed from the link provided. [Click here to view forms.](#)

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## INDIANA

**HB 1320**, which became effective **July 1, 2013**, imposes a fee schedule with a maximum reimbursement rate of 200% of the Medicare rate for treatments and procedures by medical service providers to injured workers. Payments for repackaged drugs will be limited to the average wholesale price set by the original manufacturer. [Click here for more info.](#)

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## LOUISIANA

Two new workers' compensation bills passed into law effective **August 1, 2013**: **HB 728** will undo a provision of the 2012 workers' compensation reforms which allowed payers to file claims against injured workers. Now that **HB 728** is law, employers will only be able to file fraud and misrepresentation claims against claimants. **HB 450** creates a position for an associate medical director at the Office of Workers' Compensation Administration, who would be able to act on behalf of the lead medical director's place when conflicts of interest arise.

[Click here for more info about HB 728.](#)

[Click here for more info about HB 450.](#)

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## NEW MEXICO

The Work Loss Data Institute's Official Disability Guidelines went into effect in New Mexico on **July 1, 2013**, at which point all services for recommended treatment contained in the most recent edition of the guidelines will be presumed reasonable and necessary. Under Part 7 of the administration's rules, physicians who treat according to the ODG will not need to obtain prior authorization from insurers or self-insured employers. The rule also clarifies that providers can use other evidence-based treatment guidelines, but the presumption that treatment is reasonable and necessary only applies to the ODG. [Click here for more info.](#)

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## OKLAHOMA

**SB 1062** was signed by the governor on **May 6, 2013**. It codifies the Administrative Workers' Compensation Act, Oklahoma Employee Injury Benefit Act, and Workers' Compensation Arbitration Act, and establishes the Workers' Compensation Court of Existing Claims. The measure is effective **February 1, 2014**, but various provisions have different operative dates. [Click here for more info.](#)

**HB 2201** was signed by the governor on **May 7, 2013**. It creates the CompSource Mutual Insurance Company Act. The measure is effective **January 1, 2015**, but various provisions have different operative dates. [Click here for more info.](#)

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## OREGON

**SB 533** doubles the time nurse practitioners can treat injured workers, to 180 days from the date of the first visit. The bill also allows an injured worker enrolled in a managed care organization to bring his chiropractor into the MCO if the chiropractor agrees to the organization's rules. [Click here for more info.](#)

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## PENNSYLVANIA

### WATCH LIST

**HB 1636** renews efforts to curb medical costs in the workers' compensation system with legislation that would require injured workers to use coordinated-care organizations chosen by their employers for the duration of their claims. A statute enacted in 1993 allowed employers to direct care to CCOs, but only for the first 90 days following a job-related injury.

**HB 1636** would extend employer control through the life of an injured worker's claim. [Click here for more info.](#)

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## TENNESSEE

**SB 200**, known as *The Workers' Compensation Reform Act of 2013*, was signed into law on **April 29, 2013**. It will create the Court of Workers' Compensation Claims within the DWC, effective **July 1, 2014**. The bill also mandated adoption of medical treatment guidelines by January 1, 2016. [Click here for more info.](#)

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## TEXAS

**SB 1322**, which will take effect **September 1, 2013**, allows home health care and durable medical equipment (DME) providers to create their own voluntary and informal networks which they were previously barred from doing. DME and home health care providers can now network and negotiate reimbursement rates with payers that are greater than or less than the DWC's medical fee guidelines. [Click here for more info.](#)

Texas providers and carriers anticipate that it will take at least a month before they know whether new medical billing code requirements are causing denials of medical reimbursement claims by physical and occupational therapists. The Centers for Medicare and Medicaid Services' new rule requiring physical therapists, occupational therapists, and speech pathologists to use "G-codes" on their medical bills took effect on **July 1, 2013**. Carriers and therapists in Texas have been worried about the rule change since the Division of Workers' Compensation issued a memo on **June 17, 2013**, that its medical fee guidelines require the use of Medicare billing policies and it was legally required to implement the rule. The concern is that because some providers don't bill Medicare, they will need to pay for expensive upgrades and may be forced to resort to paper billing in the interim before billing systems are compatible with the Medicare billing rules. [Click here for more info.](#)

On **August 5, 2013**, the Commissioner of Workers' Compensation adopted amended 28 Texas Administrative Code (TAC) §130.1, regarding certification of maximum medical improvement and evaluation of permanent impairment. The adoption was filed with the Office of the Secretary of State on August 5, 2013. The adoption will be published in the August 16, 2013 issue of the Texas Register and may be viewed at that time on the Secretary of State website at <http://www.sos.state.tx.us/texreg/index.shtml>.

[Click here for a courtesy copy of the adoption on the Texas Department of Insurance website.](#)

**HB 3152** adds new sections to the law governing provider reimbursement within a network. Provider reimbursement within a certified network becomes effective **September 1, 2013**. [Click here for more info.](#)

### WATCH LIST

DWC is proposing amendments to Chapter 28 of the Texas Administrative Code, Sections 133.2, 133.240, 133.250, and 133.305. The DWC has posted draft rules on UR. Utilization review agents will be required to make an attempt to contact injured workers' medical providers before rejecting proposed medical care. The proposal is only an "informal" attempt at rulemaking: The public has until **August 19, 2013**, to make comments. After that the formal rulemaking process begins. [Click here for more info.](#)

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## WASHINGTON

The Department of Labor and Industries reduced the amount of time doctors can prescribe narcotics for injured workers without agency authorization to six (6) weeks from twelve (12) in new opioid guidelines that took effect on **July 1, 2013**. [Click here to view new opioid guidelines.](#)