

**Title 8, California Code of Regulations  
Chapter 4.5, Division of Workers' Compensation  
Subchapter 1 - Administrative Director – Administrative Rules**

**Article 5.3**

**Section 9789.40. Pharmacy**

(a) The maximum reasonable fee for pharmaceuticals and pharmacy services rendered after January 1, 2004 is 100% of the fee reimbursement prescribed in the relevant Medi-Cal payment system, including the Medi-Cal professional fee for dispensing. Medi-Cal rates will be made available on the Division of Workers' Compensation's Internet Website ([http://www.dir.ca.gov/DWC/dwc\\_home\\_page.htm](http://www.dir.ca.gov/DWC/dwc_home_page.htm)) or upon request to the Administrative Director at:

DIVISION OF WORKERS' COMPENSATION  
(ATTENTION: OMFS - PHARMACY)  
P.O. BOX 420603  
SAN FRANCISCO, CA 94142.

(b) For a pharmacy service or drug that is not covered by a Medi-Cal payment system, the maximum reasonable fee paid shall not exceed the drug cost portion of the fee specified in the OMFS 2003- determined in accordance with this subdivision, plus \$7.25 professional fee for dispensing or \$8.00 if the patient is in a skilled nursing facility or in an intermediate care facility. The maximum fee shall include only a single professional dispensing fee for dispensing for each dispensing of a drug.

(1) If the National Drug Code for the drug product as dispensed is not in the Medi-Cal database, and the National Drug Code for the underlying drug product from the original labeler appears in the Medi-Cal database, then the maximum fee shall be the drug cost portion of the reimbursement allowed pursuant to section 14105.45 of the Welfare and Institutions Code using the National Drug Code for the underlying drug product from the original labeler as it appears in the Medi-Cal database, calculated on a per unit basis, plus the professional fee allowed by subdivision (b) of this section.

(2) If the National Drug Code for the drug product as dispensed is not in the Medi-Cal database and the National Drug Code for the underlying drug product from the original labeler is not in the Medi-Cal database, then the maximum fee shall be 83 percent of the average wholesale price of the lowest priced therapeutically equivalent drug, calculated on a per unit basis, plus the professional fee allowed by subdivision (b) of this section.

(c) For purposes of this section:

(1) “therapeutically equivalent drugs” means drugs that have been assigned the same Therapeutic Equivalent Code starting with the letter “A” in the Food and Drug Administration’s publication “Approved Drug Products with Therapeutic Equivalence Evaluations” (“Orange Book”). The Orange Book may be accessed through the Food and Drug Administration’s website: <http://www.fda.gov/cder/orange/default.htm>.

(2) “National Drug Code for the underlying drug product from the original labeler” means the National Drug Code of the drug product actually utilized by the repackager in producing the repackaged product.

(d) The changes made to this Section in February, 2007, shall be applicable to all pharmaceuticals dispensed or provided on or after March 1, 2007.

Authority: Sections 133, 4603.5, 5307.1 and 5307.3, Labor Code. Reference: Sections 4600, 4603.2 and 5307.1, Labor Code.