

## How Will the Closed Formulary Impact Your Pain Practice?

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### Why Is There A Closed Formulary?

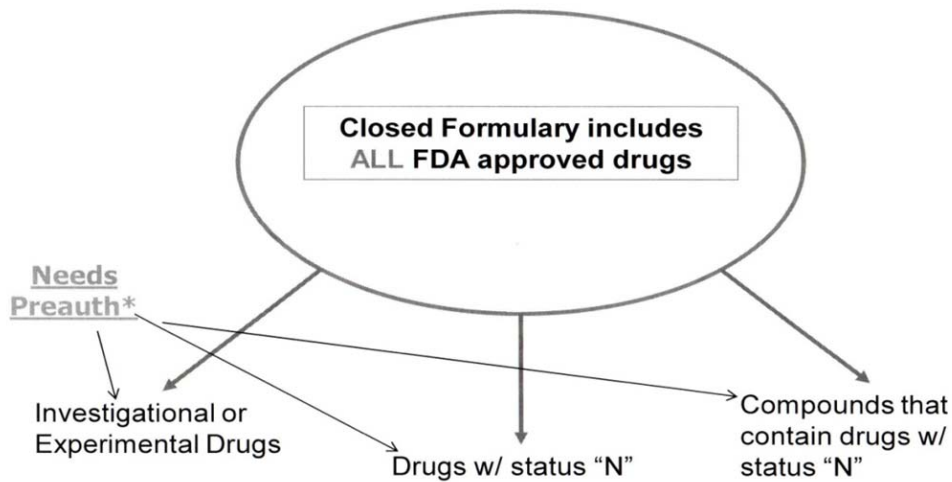
The 79<sup>th</sup> Texas Legislature passed House Bill 7, which amended Texas Labor Code §408.028 concerning *Pharmaceutical Services*. The pertinent provisions stated: “The commissioner by rule shall adopt a closed formulary under Section 413.011. Rules adopted by the commissioner shall allow an appeals process for claims in which a treating doctor determines and documents that a drug not included in the formulary is necessary to treat an injured employee’s compensable injury.”

### What is a Closed Formulary and How Do I Know What Drugs Are Approved?

A closed formulary is a formulary that includes ALL FDA approved drugs, but some of the drugs will require preauthorization. The Official Disability Guidelines (ODG) maintains an Appendix A which is a chart of drugs which are currently listed as “N” drugs. An “N” drug is a drug that is not recommended—that doesn’t mean you can prescribe it, but it does mean you will need to get preauthorization for it (when the closed formulary applies).

You will also need to get preauthorization for any compound that includes an “N” drug or any drug that is considered investigational or experimental.

## Pharmacy Closed Formulary\*



\*after initial pharmaceutical coverage

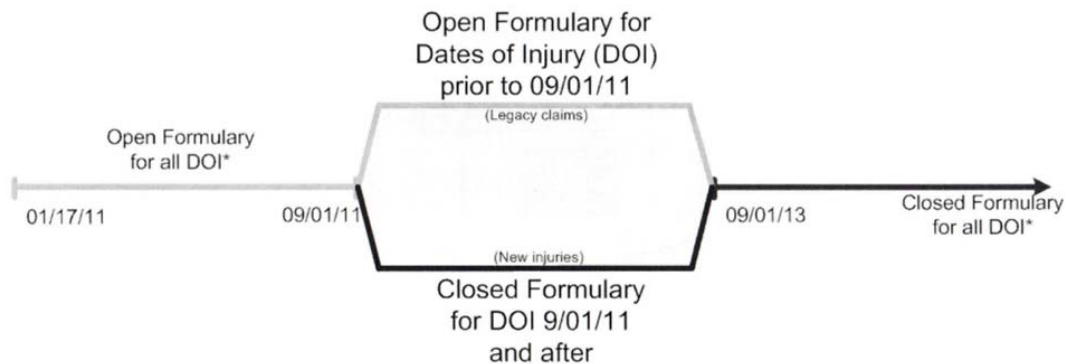
### When Will This All Change?

For injuries that occur prior to 09/01/2011 (these injuries are referred to as legacy claims) the current open formulary will apply. This means that you do not need to refer to ODG appendix A for your prescriptions. BUT for these same injured patients, the closed formulary WILL apply to them starting 09/01/2013. This means you need to take your patients treatment plan into consideration and map out a treatment plan for them that will comply with the closed formulary starting 09/01/2013.

For injuries that occur 09/01/2011 and after, the closed formulary goes into effect 09/01/2011 and you will need to consult the ODG Appendix A for the list of current drugs with an N status and apply for preauthorization if necessary.

The reason for the two dates of implementation is to allow physicians to safely and effectively transition patients to a new plan that complies with the closed formulary.

## Timeline of the Closed Formulary Implementation



This timeline is for educational purposes only, and is not a substitute for the statute or rules.

\*Except Old Law Claims (DOI Dec 31, 1990 and before)

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### How Can I Find Appendix A from ODG?

You can order the ODG from the Work Loss Data Institute at <http://worklossdata.com/>. Or, another option is the Texas Department of Insurance, Division of Workers' Compensation (TDI-DWC) has posted [a listing of status "N" drugs](#) published in *Official Disability Guidelines – Treatment in Workers' Comp (ODG) / Appendix A, ODG Workers' Compensation Drug Formulary*. The TDI-DWC will update the listing monthly upon receipt from ODG. The online edition of the ODG is updated as new evidence becomes available and is the official source for TDI-DWC actions. Please note, since the TDI-DWC posting may not be as current as the ODG, drugs may have changed status with ODG and may not be reflected on the TDI-DWC list yet.

**What does this mean for my intrathecal pump patients? Do I have to get preauthorization before every refill?**

*From the Texas Administrative Code, RULE §134.530 Requirements for Use of the Closed Formulary for Claims Not Subject to Certified Networks*

(c) Preauthorization of intrathecal drug delivery systems.

(1) An intrathecal drug delivery system requires preauthorization in accordance with §134.600 of this title and the preauthorization request must include the prescribing doctor's drug regime plan of care, and the anticipated dosage or range of dosages for the administration of pain medication.

(2) Refills of an intrathecal drug delivery system with drugs excluded from the closed formulary, which are billed using Healthcare Common Procedure Coding System (HCPCS) Level II J codes, and submitted on a CMS-1500 or UB-04 billing form, require preauthorization on an annual basis. Preauthorization for these refills is also required whenever:

(A) the medications, dosage or range of dosages, or the drug regime proposed by the prescribing doctor differs from the medications, dosage or range of dosages, or drug regime previously preauthorized by that prescribing doctor; or

(B) there is a change in prescribing doctor.

(d) Treatment guidelines. Except as provided by this subsection, the prescribing of drugs shall be in accordance with §137.100 of this title (relating to Treatment Guidelines), the division's adopted treatment guidelines.

**Non-Network**

**Rule 134.530 (c)(1)**

**Intrathecal drug delivery systems (pain pump) requires preauthorization**

**In accordance with 134.600 and the request must include:**

- 1. Regime plan of care**
- 2. Anticipated dosage or range of dosages**

**Network**

**Rule 134.540 (c)(1)**

**Intrathecal drug delivery systems (pain pump) requires preauthorization**

**In accordance with the certified network's processes**

## **How Do I Start to Transition My Patients With Injuries Before 09/01/2011? (Legacy Patients)**

*At any time between September 1, 2011 and September 1, 2013:*

The prescribing doctor should include a statement of medical necessity with the prescription for drugs excluded from the closed formulary for legacy claims

*To facilitate the transition, the prescribing doctor or the insurance carrier may:*

Contact each other to discuss ongoing pharmacological management of the injured employee's claim  
When the parties contact each other, they must provide a name, phone number, date and time to discuss ongoing pharmacological management of the injured employee's claim

Beginning no later than March 1, 2013, the insurance carrier shall:

Identify legacy claims where an excluded drug has been prescribed after September 1, 2012  
Provide written notification to the injured employee, prescribing doctor and pharmacy, if known

The written notification will contain:

- Date the closed formulary will apply
- Name, telephone number, and date and time to discuss ongoing pharmacological management of the injured employee's claim

Agreement: During the discussion the insurance carrier and a prescribing doctor may enter into an agreement on the application of the closed formulary on an individual claim-by-claim basis

Agreement requirements:

- Must be documented by the carrier and shared with the prescribing doctor and injured employee
- Health care provided as a result of the agreement is not subject to retrospective review

If an agreement is not reached:

- A denial of a request for an agreement is not subject to dispute resolution
- Closed formulary applies as of September 1, 2013

### **I Still Have Questions – Where Can I Find More Information?**

- Pharmacy Closed Formulary Rules (28 TAC Subchapter F Pharmaceutical Services)

[http://info.sos.state.tx.us/pls/pub/readtac\\$ext.ViewTAC?tac\\_view=5&ti=28&pt=2&ch=134&sch=F&rl=Y](http://info.sos.state.tx.us/pls/pub/readtac$ext.ViewTAC?tac_view=5&ti=28&pt=2&ch=134&sch=F&rl=Y)

- Texas Department of Insurance, Division of Workers' Compensation (TDI-DWC)

<http://www.tdi.state.tx.us/wc/indexwc.html>

- TDI-DWC Slides

<http://www.tdi.state.tx.us/wc/pharmacy/documents/rxform0511.pdf>

- Training Schedule

<http://www.tdi.state.tx.us/wc/news/edsessions/index.html>

- Pharmacy Rules and FAQs

<http://www.tdi.state.tx.us/wc/pharmacy/index.html>