

# Texas Closed Formulary Coming Soon: Will You Be In Compliance?

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## Introduction

The Texas Department of Insurance, Division of Workers' Compensation (DWC) has adopted legislation aimed at reducing the amount of money spent on workers' compensation pharmaceuticals and more importantly, improving the overall health of the injured workers in the state. Effective September 1, 2011, prior authorizations will be required for all prescriptions that fall under the category "N" in the Work Loss Institute's Official Disability Guidelines (ODG). Drugs on the ODG "N" list include highly addictive and expensive class 2 narcotics, dangerous hypnotics, and compound drugs that contain "N" ingredients.

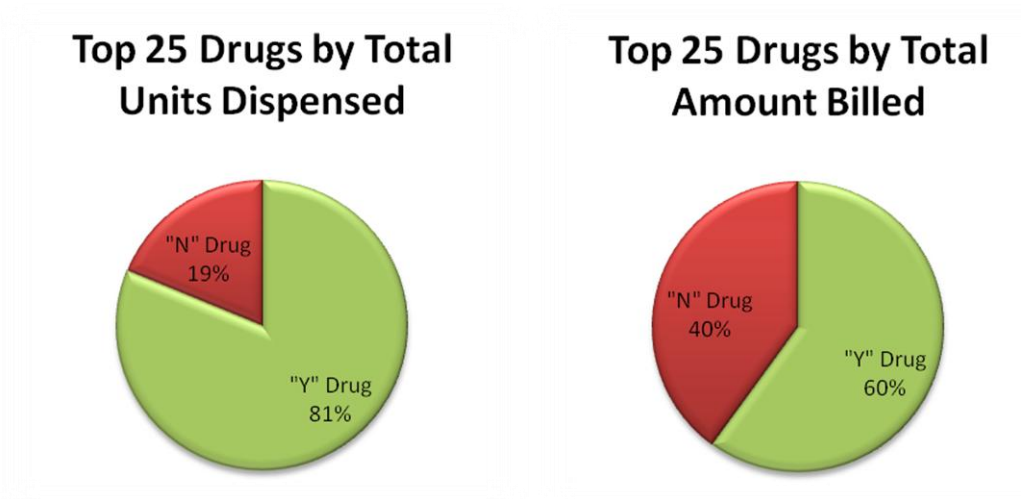
## Texas Background

Texas has traditionally been at the forefront of workers' compensation cost containment and an aggressive foray into drug reform comes as no surprise. Texas made strides in 2005 to adopt the ODG to be the backbone and final arbiter for all peer reviews and pre-authorizations. Pre-authorization began by confirming the medical necessity of procedures before they were approved for payment. This process flowed into chiropractic, physical therapy, acupuncture, and work hardening because these specialties were over-treating workers' compensation claimants with the knowledge that someone was liable, extending the treatment way beyond the accepted 6-8 weeks it takes to heal soft tissue damage. Once a pre-authorization process was put in place using ODG guidelines, disputes decreased by 44%, and the average medical cost per claim decreased by over 26% between 2007 and 2009. Success in this venue gave the Texas DWC confidence to extend the pre-authorization process to prescription drugs, and they have been working on regulatory reform surrounding this issue over the last several years. In September

2011 they will become the first non-monopolistic jurisdiction to specifically prohibit certain drugs without prior authorization.

## “N” Drugs are Expensive and Frequently Prescribed

- Of the top 25 drugs prescribed for workers’ compensation in 2009, 10 of these drugs were “N” drugs. These drugs alone accounted for 26.3% of *all* prescription costs in 2009, and 40% of the dollars spent on the top 25 most prescribed drugs.
- OxyContin, an “N” drug, was the #1 prescribed drug by dollars billed for workers’ compensation in 2009 and by itself accounted for 10.3% of *all* prescription costs- more than double the next most prescribed drug.
- Lidoderm, also an “N” drug, was the #2 prescribed drug by dollars billed for workers’ compensation in 2009 and accounted for 4.9% of *all* prescription costs.



**Figure 1. Although “N” drugs only accounted for 19% of the units dispensed in the Top 25 most prescribed medications of 2009, they accounted for 40% of the costs.**

- The average AWP for an “N” drug in the 2009 top 25 most prescribed medications list was \$16.48 compared to only \$6.81 for a non “N” drug, a 242% increase in AWP.
- Many “N” drugs, like OxyContin, are highly addictive and make it much less likely the injured worker will return to work in a timely manner. These drugs also have several known side effects

like depression or constipation that can lead to the prescription of more drugs to combat these side effects.

## Texas Closed Formulary Summary

- In the ODG, pharmaceuticals are separated into two categories: “N” and “Y.”
- If the Date of Injury (DOI) is on or after September 1, 2011, all drugs that fall under the “N” category or any compounds that contain an “N” drug must be deemed medically necessary *before* they can be dispensed.
- The providing physician will request a pre-authorization for drugs in the “N” category. The request will go through an administrative approval process. For requests that cannot be approved in the course of the administrative process, an independent physician will then peer review the request and either approve or deny the prescription.
- It is likely that some physicians will *not* request a pre-authorization in the beginning stages of the closed formulary, thus the pharmacy will not be able to dispense the drug until they request a pre-authorization themselves or wait for a response from the doctor.
- If the prescription is denied it will either not be dispensed or go through an appeal process.
- If the drug is approved, a signed letter of medical necessity will accompany the patient to the pharmacy so the “N” drug can be dispensed.
- All claims with a DOI prior to September 1, 2011 (Legacy Claims) will not be subject to the closed formulary regulations until September 1, 2013 at which time all closed formulary provisions will apply.
- For legacy claims, physicians must maintain a statement of medical necessity for any “N” drugs that are prescribed between September 1, 2011 and September 1, 2013.
- Carriers must identify any legacy claims where the patient is prescribed an “N” drug prior to March 1, 2013 and notify the injured worker and prescribing physician of the Close Formulary changes to take place on September 1, 2013.

## How will these Changes affect your Business?

- The number of pre-authorizations will grow significantly.
- A staff of Registered Nurses and contracted Physician Reviewers will be needed to deal with the influx of prospective reviews and appeals.
- Reviewers must be able to interpret and apply the ODG to ensure appropriate use of “N” drugs.
- A complete pre-authorization system must be developed to process, assign, and bill each pre-authorization request.

## What can you do about it?

**PRIUM**, an Atlanta based utilization review company, has been doing pre-authorizations in the state of Texas for almost 25 years. Our reviewing physicians and nurses are experts on the ODG and its new formulary. In fact, **PRIUM**'s Medical Director is a practicing physician in the state of Texas.

**PRIUM** has been 99% on time and had 99.7% quality as judged by our customers on pre-authorizations over the last three years. For more information on how you can take preemptive action to be prepared for the unprecedented changes that will go into effect on September 1, 2011 please email [sales@prium.net](mailto:sales@prium.net) or call 1-888-588-4964 today.

## Bibliography

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