

Craig E. Campbell
Lieutenant Governor
State Capitol
Juneau, Alaska 99811
907.465.3520 465.5400 Fax
WWW.LTGOV.ALASKA.GOV



530 West 7th Ave, Suite 1700
Anchorage, Alaska 99501
907.269.7460 269.0263
LT.GOVERNOR@ALASKA.GOV

**OFFICE OF THE LIEUTENANT GOVERNOR
ALASKA**

MEMORANDUM

TO: Sharon Busch, AAC Contact
Department of Labor and Workforce Development

FROM: Scott Clark
Special Assistant 907.465.4081 

DATE: July 1, 2010

RE: Filed Permanent Regulations: Department of Labor and Workforce Development
Prescriptions: Generic and Name-Brand Drug Products: 8 AAC 45.081; 8 AAC 45.082(d); and 8 AAC 45.086(a)

Attorney General File: JU2010201051
Regulation Filed: 7/1/2010
Effective Date: 7/31/2010
Print: 195, October 2010

cc with enclosures: Linda Miller, Department of Law
Jim Pound, Administrative Regulation Review Committee
Judy Herndon, LexisNexis

ORDER ADOPTING CHANGES TO REGULATIONS OF THE
DEPARTMENT OF LABOR AND WORKFORCE DEVELOPMENT

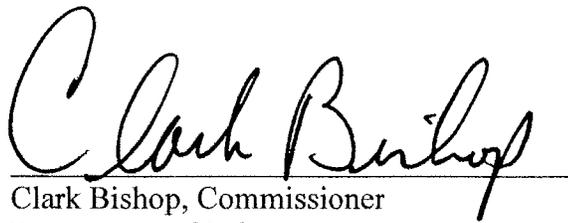
The attached 4 pages of regulations, dealing with workers' compensation including provisions regarding the dispensing of name-brand and generic drugs are adopted and certified to be a correct copy of the regulation changes that the Alaska Department of Labor and Workforce Development adopts under the authority of AS 23.30.005 and after compliance with the Administrative Procedure Act (AS 44.62), specifically including notice under AS 44.62.190 and 44.62.200 and opportunity for public comment under AS 44.62.210.

This action is not expected to require an increased appropriation.

Although no public comments were received, the Department of Labor and Workforce Development paid special attention to the cost to private persons of the regulatory action being taken.

The regulation changes adopted under this order take effect on the 30th day after they have been filed by the lieutenant governor, as provided in AS 44.62.180.

DATE: 6-23-10
Juneau, Alaska

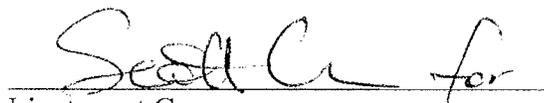

Clark Bishop, Commissioner
Department of Labor
and Workforce Development

FILING CERTIFICATION

✓ Scott Clark for

I, Craig E. Campbell, Lieutenant Governor for the State of Alaska, certify that on

July 1, 2010, at 11:50 am., I filed the attached regulations according to the provisions of AS 44.62.040 - 44.62.120.


Lieutenant Governor

Effective: July 31, 2010

Register: 195, October 2010

ORDER CERTIFYING THE CHANGES TO REGULATIONS OF
THE ALASKA WORKERS' COMPENSATION BOARD

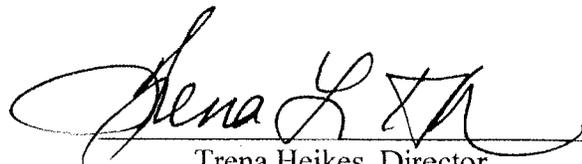
The attached 4 pages of regulations, dealing with workers' compensation, including provisions regarding the dispensing of name-brand and generic drugs, are certified to be a correct copy of the regulation changes that the Alaska Workers' Compensation Board adopted at its February 25-26, 2010 meeting, under the authority of AS 23.30.005 and after compliance with the Administrative Procedure Act (AS 44.62), specifically including notice under AS 44.62.190 and 44.62.200 and opportunity for public comment under AS 44.62.210.

This action is not expected to require an increased appropriation.

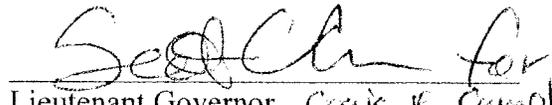
Although no public comments were received, the Alaska Workers' Compensation Board paid special attention to the cost to private persons of the regulatory action being taken.

The regulation changes described in this order take effect on the 30th day after they have been filed by the lieutenant governor on as provided in AS 44.62.180.

DATE: June 14, 2010
Juneau, Alaska


Trena Heikes, Director
Division of Workers' Compensation

Scott Clark for FILING CERTIFICATION
I, Craig E. Campbell, Lieutenant Governor for the State of Alaska, certify that
on July 1, 2010 at 11:50 a.m., I filed the attached regulations according
to the provisions of AS 44.62.040 – 44.62.120.


Lieutenant Governor Craig E. Campbell

Effective: July 31, 2010
Register: 195, October 2010

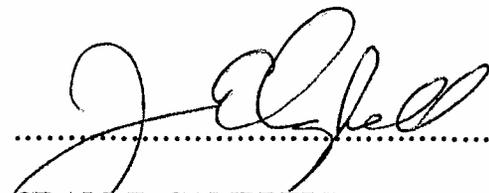
FOR DELEGATION OF THE LIEUTENANT GOVERNOR'S AUTHORITY

I, CRAIG E. CAMPBELL, LIEUTENANT GOVERNOR OF THE STATE OF ALASKA, designate the following state employee to perform the Administrative Procedures Act filing functions of the Office of the Lieutenant Governor:

SCOTT CLARK, Special Assistant

IN TESTIMONY WHEREOF, I have signed and affixed the Seal of the State of Alaska, at Juneau, on February 23, 2010.




.....
**CRAIG E. CAMPBELL
LIEUTENANT GOVERNOR**

**Chapter 45. Compensation, Medical Benefits,
and Proceedings Before the Alaska
Workers' Compensation Board.**

8 AAC 45 is amended by adding a new section to read:

8 AAC 45.081. Dispensing of generic drug products. (a) When filling a prescription provided to an employee as a medical benefit under the Act, an available generic drug product must be dispensed in place of a name-brand drug product when the cost of the generic drug product is less, except that a name-brand drug product that is more expensive than an available generic drug product may be dispensed if the prescribing physician has provided a written justification of the medical necessity for dispensing the name-brand drug product as described in this section. A notation that the prescription for the name-brand drug product must be dispensed only as written is not a sufficient justification of medical necessity.

(b) The prescribing physician must prepare the written justification of the medical necessity of dispensing a name-brand drug product and submitting the written justification along with the prescription to the dispensing pharmacist and the insurer. The written justification does not need to be submitted to the dispensing pharmacist if the prescription itself expressly notes that the prescription is being provided as a medical benefit under the Act and that a written justification of the medical necessity for dispensing a name-brand drug product has been submitted to the insurer.

(c) A written justification of the medical necessity for dispensing the name-brand drug product may include any of the following factors regarding the employee:

(1) treatment failure with the generic drug product;

(2) past medical history that suggests an anticipated treatment failure with the generic drug product;

(3) clinically significant adverse reaction to the generic drug product;

(4) a medical condition that causes a contraindication for the use of the generic drug product;

(5) allergic reaction to the generic drug product.

(d) An employee may choose to have a name-brand drug product dispensed, even if a less costly generic drug product is available and no written justification of medical necessity has been provided. The difference in cost between the generic drug product and name-brand drug product must be paid by the employee and neither the employer nor the employer's insurer is liable for reimbursing the employee for the additional cost.

(e) The Alaska Medicaid Preferred Drug List, version 111809, revised as of November 18, 2009, is adopted by reference as the preferred drug list for purposes of the Act. (Eff. 07/31/2010, Register 195)

Authority: AS 23.30.005 AS 23.30.095

8 AAC 45.082(d) is amended to read:

(d) Medical bills for an employee's treatment are due and payable within 30 days after the date the employer received the medical provider's bill, **a written justification of the medical necessity for dispensing a name-brand drug product if required for the filling of a prescription that was part of the treatment**, and a completed report on form 07-6102. Unless the employer controverts the prescription charges or transportation expenses, an employer shall reimburse an employee's prescription charges or transportation expenses for medical treatment within 30 days after the employer received the medical provider's completed report on form 07-

6102, **a written justification of the medical necessity for dispensing a name-brand drug product if required for the filling of a prescription that was part of the treatment**, and an itemization of the prescription numbers or an itemization of the dates of travel, destination, and transportation expenses for each date of travel. If the employer controverts

(1) a medical bill or if the medical bill is not paid in full as billed, the employer shall notify the employee and the medical provider in writing the reasons for not paying all or a part of the bill or the reason for delay in payment within 30 days after receipt of the bill, **a written justification of the medical necessity for dispensing a name-brand drug product if required for the filling of a prescription that was part of the treatment**, and completed report on form 07-6102; (Eff. 5/28/83, Register 86; am 12/14/86, Register 100; am 7/1/88, Register 107; am 10/28/88, Register 108; am 3/16/90, Register 113; am 7/20/97, Register 143; am 7/2/98, Register 146; am 2/3/2001, Register 157; am 07/31/2010, Register 195)

Authority: AS 23.30.005 AS 23.30.045 AS 23.30.095
AS 23.30.030

8 AAC 45.086(a) is amended to read:

(a) A provider who renders medical or dental services under the Act shall file with the board and the employer a substantially complete form 07-6102, **and a written justification of the medical necessity for dispensing a name-brand drug product if required for the filling of a prescription that was part of the services**, within 14 days after each treatment or service. (Eff. 5/28/83, Register 86; am 3/16/90, Register 113; am 07/31/2010, Register 195)

Authority: AS 23.30.005 AS 23.30.095