



Workers' Compensation Board

ANDREW M. CUOMO
Governor

CLARISSA M. RODRIGUEZ, ESQ.
Chair

ORDER OF THE CHAIR

Order #1002

On March 7, 2020, Governor Andrew M. Cuomo issued Executive Order 202, declaring a disaster emergency in the State of New York, in response to the threat posed to the health and welfare of its citizens and visitors by the novel coronavirus, COVID-19, pandemic.

Due to the public health emergency facing the State of New York, authorized health care providers' may be unable to meet the deadline to implement the requirement that all renewal prescriptions be prescribed consistent with the Workers' Compensation Drug Formulary as of the current established deadline of June 5, 2020. Problems with regulatory compliance during the current emergency could lead to confusion and negative impacts for injured workers, who have remained on certain medications for years that are non-formulary agents.

Current regulations of the Board provide that on June 5, 2020, which is one year from the effective date of Part 441, at 12 NYCRR 441.3(a)(2):

Refill and Renewal Prescriptions. 12 months from the effective date of this Part, every refill and renewal prescription shall be prescribed and dispensed consistent with the Formulary and this Part regardless of the date of accident or disablement and subject to any required Prior Authorization.

By virtue of the power vested in me as the Chair of the Workers' Compensation Board (Board) by Sections 141 and 152 of the Workers' Compensation Law (WCL), and pursuant to the provisions of Section 300.30 of Title 12 of the Official Compilation of Codes, Rules and Regulations of the State of New York, which provides that the Board may in its discretion suspend or modify the application of any of its rules, I, Clarissa M. Rodriguez, on behalf of the Board, hereby modify that part of Section 441.3(a)(2) of Title 12 of the Official Compilation of Codes, Rules and Regulations of the State of New York, to provide that the effective date of the provision requiring that all renewals shall be consistent with the Formulary shall be January 1, 2021.

The modification of this provision in Section 441.3(a)(2) of Title 12 of the Official Compilation of Codes, Rules and Regulations of the State of New York, shall become effective immediately.

I further direct that this Order be filed with the Secretary of the Board.

Dated: April __, 2020

CLARISSA M. RODRIGUEZ, CHAIR

This Order was duly filed in the Office of the Secretary of the Workers' Compensation Board on the __ day of April 2020

KIM MCCARROLL, SECRETARY