

February 27, 2026

What's New In Our Workers' Compensation Industry Florida

First District Court of Appeal Invalidates “Physician Medication Dispensing” Rule and Limits Florida’s Division of Workers’ Compensation Authority:

Short Summary:

In perhaps the most financially and procedurally significant opinion of the year for Florida workers’ compensation, the First District Court of Appeals invalidated the Florida DFS/Division of Workers’ Compensation’s rule requiring carriers to authorize physician-dispensed medication. In Publix, et al v. Department of Financial Services, Division of Workers’ Compensation, et al, 2/25/2026 (Fla. 1st DCA Case No. 1D-2023-0941, 02/25/2026), the DCA held invalid the Division’s interpretation of §440.13(3)(j), Fla. Stat., regarding whether physicians are pharmacists under the Workers’ Compensation Law. The Court held they are not. Equally significant is the court’s holding that the DFS/DWC DOES NOT have authority to re-interpret the terms “pharmacy” or “pharmacist” in the Workers’ Compensation statute to mean that injured workers have free and absolute choice of where ever they want to get their medications, including from a doctor’s office.

Significance:

Under the Law, carriers control not only who is authorized, but what they are authorized to perform. The only two exceptions are emergencies and pharmacies. The DWC’s effort to control or even adjudicate aspects of authorization under the guise of efficiency have been seriously curtailed.

Practice Pointer:

Carriers with pending reimbursement disputes may wish to include Amended Carrier Response to Provider Dispute Petitions.

Carriers should revise all authorization letters to providers, and be specific. Remember that claimants retain the right to choose the pharmacy of their choice, but all medication is treatment, subject to utilization review.

For further recommendations, including possible actions related to past and pending reimbursement disputes and claims, please contact Attorney Ralph Douglas in our Tallahassee office at rdouglas@mcconnaughhay.com.

Dispute History:

Disputes over physician or practitioner-dispensed medication have existed for nearly two decades. In 2012, the Legislature revised the payment section of the law to address out of control re-packaged medication costs. However, this did not limit what carriers and the Workers' Compensation Research Institute had been noticing, namely that dispensing practitioners were changing what they prescribed, and the AWP system on which payment was based, was easily manipulated and abused. Throughout that time however, the DWC position was that carriers controlled authorization and this included whether a provider could dispense medication in the office.

On March 31, 2020, the DWC reversed its position and the law, and issued Bulletin 01-2020. The new Bulletin suggested that employers/carriers (E/C's) had to authorize dispensing practitioners, enabling system participants and vendors alike to game the AWP system and manipulate the pricing, with the mandate of government. After a number of our clients noticed the increase in systemic abuse, and the changes in the treatment regimens that followed, we represented a consortium of our workers' compensation clients and filed an Administrative Rule Challenge Petition to challenge the DWC policy and to rescind the 2020 Bulletin. As a result of that rule challenge, the Department withdrew the Bulletin and agreed to engage in rule-making.

After engaging in rulemaking, the DWC issued amendments to Rules 69L-7.730 & 7.740, FAC, providing that carriers could not deny medication "solely because" it was dispensed without authorization. Upon publication of the proposed rules, we led a consortium of E/Cs, who challenged these rules.

In the underlying rule challenge, the carriers pointed out that dispensing practitioners are an exception to the law that only pharmacists can dispense medications. We pointed out that the DFS/DWC was exceeding its jurisdiction and authority by reinterpreting a law, which required no interpretation, and inserting a new class of protected vendors, to achieve a policy or political objective.

The First DCA's reversal of the ALJ's Final Order has larger and longer lasting ramifications than the most obvious ones already being discussed within the industry. Obviously, carriers retain the right to control authorization, with the exception of which pharmacy could dispense medication. More importantly, the Department is not free to take its general regulatory authority as legislative grant to redefine the specific rights and duties of parties and vendors to the system. The Department's authority must be clearly delineated in the statute, and its exercise of that authority must derive directly from the language of the statute. Any gap between the grant of authority and the action taken renders that action invalid.

In light of this, you may anticipate further rule-making by the Department. Clients may also need to re-address both their authorization procedures, and any pending Reimbursement Disputes for further action, including but not limited to amendments to pending pleadings.

In summary, our position is that the DWC never had authority to adjudicate, determine or otherwise order the e/c to authorize treatment, or to reimburse unauthorized treatment.