



The Rules and Exceptions of Generic Medication Mandates in Workers' Comp.

In one of the many ways workers' compensation pharmacy benefit coverage differs from group health coverage, in workers' comp., employers and insurers are typically required to pay for all reasonable and necessary treatment related to a compensable work-related injury, including prescribed medications. For their part, injured workers also typically do not pay deductibles, copayments, or coinsurance for their injury-related medical care. As a result, traditional market-based cost control mechanisms driven by patient cost sharing and coverage limitations are largely absent in workers' compensation.

These factors explain the common use of generic medication mandates in many state workers' compensation systems as one of several tools to control pharmacy costs. Understanding their structure and state-by-state variation is essential for compliant and effective pharmacy benefit administration.



Defining generic medication substitution mandates

In simple terms, a generic substitution mandate requires the use of lower-cost, therapeutically equivalent generic drugs in place of brand-name medications when generic equivalent medications are available, subject to certain exceptions.

Enacted through state workers' compensation statutes (or sometimes indirectly by reference to state pharmacy laws) or adopted by regulations, these mandates serve as a cost-containment feature while applicable requirements regarding medically necessary treatment for injured workers continue to apply.

A generic substitution mandate typically establishes a default legal rule under which, subject to applicable state requirements and exceptions, a lower cost therapeutically equivalent generic medication, when available, may be required to be prescribed and/or dispensed instead of the brand-name drug as a condition of reimbursement in a workers' compensation claim. As a result, brand drugs with generic equivalents (also called multi-source drugs) may be reimbursable only when specific conditions are satisfied. These mandates are most often set forth in workers' compensation statutes, agency rules, medical fee schedules, or related regulatory guidance.



Another Cost Containment and Utilization Tool

Generic substitution mandates often operate alongside, not in place of other workers' compensation medical management tools that may be established in state laws. For example, the same medication may also be subject to:

- + State fee schedules
- + State utilization review requirements
- + State drug formularies
- + State prior authorization requirements
- + State treatment guidelines

Common Generic Substitution Mandate Categories

Although individual state laws vary, generic substitution mandates in workers' compensation generally fall into the following categories:

- 1 Generic substitution required except where prescriber notes dispense as written, do not substitute, brand necessary, or similar statement**

Under this approach, which is the more common, generic substitution is required unless the prescriber affirmatively indicates that the brand drug must be dispensed. This indication is often accomplished through language such as “dispense as written” (DAW) or “do not substitute” (DNS) on the prescription. The prescriber’s direction must typically comply with applicable workers’ compensation and/or pharmacy regulations rather than informal notation alone.
- 2 Generic substitution required except where prescriber provides a statement of medical necessity or other more formal documentation**

Some states require prescriber justification beyond a DAW or DNS indication to approve reimbursement of a brand medication in lieu of an equivalent generic. These states may depend on prescriber documentation that demonstrates medical necessity—such as evidence of therapeutic failure, adverse reactions, or other clinical considerations.
- 3 Generic substitution required except where prescriber obtains authorization**

In some states, multi-source brand medications require prior authorization from the payer before they may be dispensed and reimbursed. These rules may be integrated with state-adopted workers’ compensation drug formularies, where generics are treated as first-line therapies and brand products are subject to prior authorization
- 4 Generic substitution required**

Other states have mandate language with no express exceptions. In these states, a prescriber may be legally permitted to prescribe a multi-source brand medication, but the provisions may limit the liability of the workers’ compensation insurer for payment of the brand medication or at least the difference between the higher cost brand drug and its lower cost generic equivalent.

In addition, this scenario exists:

- 5 Injured worker may request brand but pay cost difference**

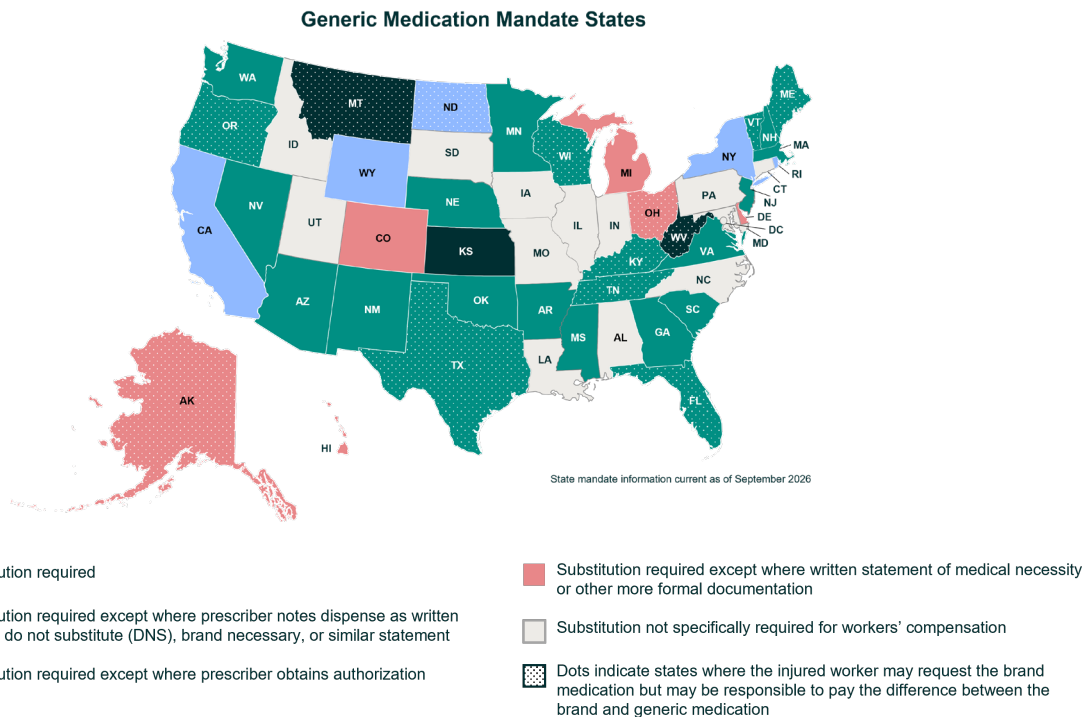
In this situation, regulations may permit the injured worker to request a brand medication even when their prescriber has otherwise not indicated one is required; however, the injured worker may have to pay the difference in cost between that brand and the generic equivalent out of their own pocket, while the employer is only liable for the cost of the generic equivalent.

The Rule Not the Exception

Overall, generic substitution mandates are a core cost-control mechanism in workers' compensation. While exceptions may exist state by state, the mandates establish generics as the default standard for multi-source drugs. Operating alongside formularies, fee schedules, and utilization review, generic substitution mandates help contain pharmaceutical costs while applicable medical necessity requirements continue to apply.

State-by-State Approaches to Generic Mandates

The following map categorizes states based on their use of, and exceptions related to, generic medication mandates in their workers' comp systems (pharmacy law mandates may at times be considered). Many states have specific language addressing generic mandates, so individual state statutes, regulations, fee schedules, and/or case law should be reviewed for the full picture prior to making any decisions.



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