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Medical Marijuana Continues to be Protected Under Just Passed Omnibus Bill

President Trump signed the congressional omnibus bill on March 23, 2018 keeping in place spending restrictions upon the Department of Justice (DOJ) that prevent prosecution of state-legal medical marijuana programs through the end of September 2018. The Rohrabacher-Blumenauer amendment specifically outlines these protections and has been part of the federal budget bill since 2014. This bill does not provide protection to those operating under recreational marijuana laws.

This provides relief to those operating legally under their state's laws, in light of Attorney General Jeff Sessions recent rescinding of the DOJ's prior hands off approach. Attorney General Sessions has opposed the inclusion of this amendment over the last year, as he would like to enforce the law as it stands under the Controlled Substance Act (CSA). Despite his opposition the amendment was again included, but will come up for review on an annual basis.

Comment: Workers' compensation carriers face violating the CSA if they reimburse injured workers for the cost of medical marijuana. To date, carriers in five states including Maine, New Jersey, Connecticut, California and New Mexico have been ordered to reimburse the injured worker for the cost of medical marijuana and most of those opinions cite the Obama era policy memo for support. Since this is no longer DOJ policy, Judges could be more reluctant to order reimbursement. However, since Congress has again included Rohrabacher-Blumenauer amendment, there continues to be protections from federal prosecution. It is likely that this amendment will continue to be included in future budgets, as the majority of states now have laws legalizing marijuana for medical use.

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