

**Rule Summary and Fiscal Analysis (Part A)****Bureau of Workers' Compensation**

Agency Name

Division

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**4123-3-23**

Rule Number

**AMENDMENT**

TYPE of rule filing

Rule Title/Tag Line

**Limitations on the filing of fee bills.****RULE SUMMARY**

1. Is the rule being filed for five year review (FYR)? **No**
2. Are you proposing this rule as a result of recent legislation? **No**
3. Statute prescribing the procedure in accordance with the agency is required to adopt the rule: **119.03**
4. Statute(s) authorizing agency to adopt the rule: **4121.12, 4121.121, 4121.30, 4121.31, 4123.52**
5. Statute(s) the rule, as filed, amplifies or implements: **4121.121, 4123.66**
6. State the reason(s) for proposing (i.e., why are you filing,) this rule:

HB 123 amended Ohio Revised Code 4123.52 effective July 29, 2011 to provide by statute that in general, fee bills for medical or vocational rehabilitation services rendered in a claim must be submitted BWC or the Industrial Commission within one year of the date on which the service was rendered or one year after the date the services became payable under Ohio Revised Code 4123.511(I), whichever is later.

BWC accordingly amended 4123-3-23 in 2011 to conform to the amended statute, and at that time included several additional provisions/exceptions. BWC now

wishes to make several modifications to the rule for clarification, and also to recognize the Ohio Department of Medicaid's right of recovery in cases where Ohio Medicaid paid for services properly reimbursable under workers' compensation.

7. If the rule is an AMENDMENT, then summarize the changes and the content of the proposed rule; If the rule type is RESCISSION, NEW or NO CHANGE, then summarize the content of the rule:

This rule regulates the limitations on the filing of fee bills.

The major substantive changes proposed are:

To clarify that the requirement of paragraph (A) of the rule that fee bills for medical or vocational rehabilitation services rendered in a claim must be submitted to BWC or the Industrial Commission within 1 year of the date on which the service was rendered or 1 year after the date the services became payable under Ohio Revised Code 4123.511(I), whichever is later, does not apply to:

- o Requests made by the Centers for Medicare and Medicaid Services for reimbursement of "conditional payments" made pursuant to the Medicare Secondary Payer Act as in effect on the date of the request;

- o Requests made by the Ohio Department of Medicaid, or by a medical assistance provider to whom the department has assigned its right of recovery for a claim for which it has notified the provider that it intends to recoup its prior payment for a claim, for reimbursement under O.R.C. sections 5160.35 to 5160.43 for the cost of medical assistance paid on behalf of a Medicaid recipient that is properly payable under workers' compensation;

- o Fee bills submitted outside the 1 year timeframe of paragraph (A) of the rule due to MCO or bureau error; however, such requests are still subject to the 2 year jurisdictional limitation in O.R.C. 4123.52(A);

- o Fee bills submitted outside the 1 year timeframe because the fee bills were initially submitted to a different third-party payer or state or federal program other than Medicare or Medicaid and that payer or program has determined that it is not responsible for reimbursement of the services; however, such requests are still subject to the 2 year jurisdictional limitation in O.R.C. 4123.52(A).

- # Clarify that except in cases involving MCO or BWC error, requests for additional payment on fee bills that were initially timely submitted under paragraph (A) of the rule shall be submitted within 1 year and 7 days of the adjudication of the initial fee bill by BWC or shall be forever barred.

- # Provide that no medical or vocational rehabilitation provider shall bill a claimant for any request for additional payment that is barred under paragraph (D) of the rule

as untimely.

8. If the rule incorporates a text or other material by reference and the agency claims the incorporation by reference is exempt from compliance with sections 121.71 to 121.74 of the Revised Code because the text or other material is **generally available** to persons who reasonably can be expected to be affected by the rule, provide an explanation of how the text or other material is generally available to those persons:

*This response left blank because filer specified online that the rule does not incorporate a text or other material by reference.*

9. If the rule incorporates a text or other material by reference, and it was **infeasible** for the agency to file the text or other material electronically, provide an explanation of why filing the text or other material electronically was infeasible:

*This response left blank because filer specified online that the rule does not incorporate a text or other material by reference.*

10. If the rule is being **rescinded** and incorporates a text or other material by reference, and it was **infeasible** for the agency to file the text or other material, provide an explanation of why filing the text or other material was infeasible:

*Not Applicable.*

11. If **revising** or **refiling** this rule, identify changes made from the previously filed version of this rule; if none, please state so. If applicable, indicate each specific paragraph of the rule that has been modified:

The Bureau is revising this rule to add one more statute that gives authorization to promulgate this rule; 4123.52 of the Ohio Revised Code.

12. Five Year Review (FYR) Date: **9/1/2016**

(If the rule is not exempt and you answered NO to question No. 1, provide the scheduled review date. If you answered YES to No. 1, the review date for this rule is the filing date.)

NOTE: If the rule is not exempt at the time of final filing, two dates are required: the current review date plus a date not to exceed 5 years from the effective date for Amended rules or a date not to exceed 5 years from the review date for No Change rules.

**FISCAL ANALYSIS**

13. Estimate the total amount by which *this proposed rule* would **increase / decrease** either **revenues / expenditures** for the agency during the current biennium (in dollars): Explain the net impact of the proposed changes to the budget of your agency/department.

This will have no impact on revenues or expenditures.

0.00

n/a

14. Identify the appropriation (by line item etc.) that authorizes each expenditure necessitated by the proposed rule:

n/a

15. Provide a summary of the estimated cost of compliance with the rule to all directly affected persons. When appropriate, please include the source for your information/estimated costs, e.g. industry, CFR, internal/agency:

The directly affected persons are HPP services providers who serve Medicaid clients, and MCOs. Impact is in the nature of affected HPP services providers' and MCOs' time for reviewing or receiving education on the changes, as well as applying any modifications (which will be minimum) to relevant systems. The changes to the rule do not create any new requirements, but rather add further clarity to current expectations set forth in the rule. Therefore, the estimated time which affected HPP services providers and MCOs may need to adjust to the changes is less than 10 hours.

16. Does this rule have a fiscal effect on school districts, counties, townships, or municipal corporations? **No**

17. Does this rule deal with environmental protection or contain a component dealing with environmental protection as defined in R. C. 121.39? **No**

**S.B. 2 (129th General Assembly) Questions**

18. Has this rule been filed with the Common Sense Initiative Office pursuant to R.C. 121.82? **Yes**

19. Specific to this rule, answer the following:

A.) Does this rule require a license, permit, or any other prior authorization to engage in or operate a line of business? **No**

B.) Does this rule impose a criminal penalty, a civil penalty, or another sanction, or create a cause of action, for failure to comply with its terms? **No**

C.) Does this rule require specific expenditures or the report of information as a condition of compliance? **Yes**

Except as otherwise provided in this rule, fee bills for medical or vocational rehabilitation services rendered in a claim shall be submitted to the bureau or commission for payment within one year of the date on which the service was rendered or one year after the date the services became payable under division (I) of section 4123.511 of the Revised Code, whichever is later, or shall be forever barred.