

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

Agency Name

Division

**Aniko Nagy**

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**4123-3-37**

Rule Number

**AMENDMENT**

TYPE of rule filing

Rule Title/Tag Line

**Lump sum advancements.****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, 4123.05**
5. Statute(s) the rule, as filed, amplifies or implements: **4123.57, 4123.64, 4123.65**
6. State the reason(s) for proposing (i.e., why are you filing,) this rule:  

This rule is being proposed for amendment to conform with the requirements of 4123.64 (B) of the Revised Code.
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 describes the Bureau's procedures for commuting a workers' compensation benefit to lump sum advancement.

The proposed changes are:

To clarify Bureau policies for lump sum advancements for an injured worker and add specific rules for lump sum advancements for a surviving spouse.

The rule adds (for an employee) that a lump sum advancement may also be paid from a permanent partial percentage award under R.C. 4123.57(A).

The rule clarifies (for a surviving spouse) that the Bureau will not award a lump sum advancement from the decedent's permanent total, permanent partial percentage, or loss of use awards that may accrue to the surviving spouse.

The rule states (for all applicants) that the Bureau will not consider a lump sum advancement application where the allowance of the award is on appeal.

Further, the rule clarifies the proof needed to establish entitlement to a lump sum advancement award. Repeating the language from the statute, the injured worker or surviving spouse shall provide proof that the lump sum advancement is advisable for the purpose of providing financial relief or for furthering the injured worker's rehabilitation, and the Bureau may dismiss an application that fails to provide such evidence.

The rule clarifies that in computing the amount of a lump sum advancement, the Bureau will account for the future value of the award. That is, the Bureau will reduce awards to the net present value. In determining the net present value of a lump sum advancement, the Bureau will use the discount factor as periodically established by the Bureau and the Board.

Finally, the rule retains the current provision that no lump sum advancement shall reduce the injured worker's compensation rate by more than 1/3 of the biweekly rate, but adds an exception for an advancement for permanent partial percentage or loss of use awards. The rule also excludes lump sum advancements for attorney fees from the 1/3 standard.

The rule clarifies that the Bureau may approve no more than two concurrent lump sum advancements in a claim in addition to an advancement for attorney fees.

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 refiling this rule to delete a reference to a statutory provision for which a lump sum advancement is not applicable.

12. Five Year Review (FYR) Date: **1/1/2019**

(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 impacted community consists of injured workers, injured worker representatives (attorneys and law firms), employers, and employer representatives. There is no cost of compliance with this rule; an injured worker who applies for lump sum advancement receives compensation payments in a lump sum rather than over time. The impact is in the time value of those payments.

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? **No**

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? **No**

