

## Rule Summary and Fiscal Analysis

### Part A - General Questions

**Rule Number:** 4123-6-08

**Rule Type:** Amendment

**Rule Title/Tagline:** Bureau fee schedule.

**Agency Name:** Bureau of Workers' Compensation

**Division:**

**Address:** 30 W. Spring St. Columbus OH 43215

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#### I. Rule Summary

1. **Is this a five year rule review?** No
  - A. **What is the rule's five year review date?** 5/1/2025
2. **Is this rule the result of recent legislation?** No
3. **What statute is this rule being promulgated under?** 119.03
4. **What statute(s) grant rule writing authority?** 4121.12, 4121.121, 4121.30, 4121.31, 4123.05
5. **What statute(s) does the rule implement or amplify?** 4121.12, 4121.44, 4121.441, 4123.66
6. **Does the rule implement a federal law or rule in a manner that is more stringent or burdensome than the federal law or regulation requires?** No
  - A. **If so, what is the citation to the federal law or rule?** Not Applicable
7. **What are the reasons for proposing the rule?**

The Bureau is required to adopt annual changes to its fee schedules via Chapter 119. of the Revised Code rulemaking process. The rule establishes the fees to be paid by the Bureau to providers of medical and professional services for injured workers.

**8. Summarize the rule's content, and if this is an amended rule, also summarize the rule's changes.**

This rule establishes the fees to be paid by BWC to providers for medical and professional provider services for injured workers. The Medical Services Division is proposing the following changes for the 2023 Professional Provider Fee Schedule Rule:

1. Recommend the following benefit plan changes.
  - a. Update general preamble language for selected billing protocols.
    - i. Clarify application of telemedicine audio-only modifier -93.
    - ii. Update place of service limitations for telemedicine modifier -95.
    - iii. Adopt definitions for "non-reimbursable services" and "non-reimbursable services furnished by a non-covered provider".
  - b. Add the following additional telemedicine services:
    - i. Three psychotherapy services; and
    - ii. Five telerehabilitation services.
  - c. Update Ohio specific service codes and descriptions.
    - i. Modify the current code structure for home modification repair and vehicle modification repair to better differentiate between services.
    - ii. Update service description language for home modification, mileage, and travel services to reduce confusion.
2. Adopt the Medicare 2022 Professional Provider and Medical services payment updates.
  - a. Adopt Medicare's relative value unit (RVU) updates to 10,000+ service codes.
  - b. Adopt Medicare fee updates for 5,000+ Healthcare Common Procedure Coding System (HCPCS) codes.
3. Adopt the following recommendations for the BWC 2023 reimbursement rates:
  - a. Maintain the current percent payment above Medicare rates for CPT® codes.
  - b. Maintain current 20% payment above Medicare rates for HCPCS codes.
  - c. Adopt other pricing updates for:
    - i. Dental;
    - ii. Hospice; and
    - iii. Home modification.

**9. Does the rule incorporate material by reference? No**

**10. If the rule incorporates material by reference and the agency claims the material is exempt pursuant to R.C. 121.75, please explain the basis for the exemption and how an individual can find the referenced material.**

*Not Applicable*

11. **If revising or re-filing the rule, please indicate the changes made in the revised or re-filed version of the rule.**

*Not Applicable*

## **II. Fiscal Analysis**

12. **Please estimate the increase / decrease in the agency's revenues or expenditures in the current biennium due to this rule.**

This will increase expenditures.

192,000,000

The projected medical costs impact for the 2023 proposed medical services and professional provider fee schedule is an increase in reimbursement of approximately 0.2%.

13. **What are the estimated costs of compliance for all persons and/or organizations directly affected by the rule?**

The impacted business community consists of the providers of medical and professional services to injured workers, rendered both in the facility and non-facility setting, as well as self-insured employers administering the program. Since the procedure code changes reflect a very narrow update, the changes being recommended are not projected to have a measurable impact on cost of compliance.

14. **Does the rule increase local government costs? (If yes, you must complete an RSFA Part B). No**

15. **Does the rule regulate environmental protection? (If yes, you must complete an RSFA Part C). No**

16. **If the rule imposes a regulation fee, explain how the fee directly relates to your agency's cost in regulating the individual or business.**

Not Applicable.

## **III. Common Sense Initiative (CSI) Questions**

17. **Was this rule filed with the Common Sense Initiative Office? Yes**

18. **Does this rule have an adverse impact on business? Yes**

- 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  
To be paid for services, providers must submit fee bills for payment to the Bureau's Managed Care Organizations (MCOs)
- D. Is it likely that the rule will directly reduce the revenue or increase the expenses of the lines of business of which it will apply or applies? No

**IV. Regulatory Restriction Requirements under S.B. 9. Note: This section only applies to agencies described in R.C. 121.95(A).**

- 19. Are you adding a new or removing an existing regulatory restriction as defined in R.C. 121.95? Yes
  - A. How many new regulatory restrictions do you propose adding to this rule? 1  
4123-6-08 Appendix Modifier 93 "Place of service code 10 (telehealth in home) must be reported with audio-only services."
  - B. How many existing regulatory restrictions do you propose removing from this rule? 4  
4123-6-08(A) "...board of directors, shall develop, maintain, and publish..."  
4123-6-08(B) "...every provider contract shall describe the method of payment..."  
4123-6-08(B) "...The MCO shall make the MCO fee schedule available to the bureau..."  
4123-6-08(B) "...The bureau shall maintain the MCO fee schedule..."

- C. If you are not removing existing regulatory restrictions from this rule, please list the rule number(s) from which you are removing restrictions.**
  
- D. Please justify the adoption of the new regulatory restriction(s).**  
Accurate reporting of place of service is necessary to properly monitor and reimburse for audio-only telehealth services provided in the home.