

## 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 West Spring Street L 26 Columbus OH 43215

**Contact:** Pete Mihaly **Phone:** 614-466-6000

**Email:** pete.mihaly@bwc.ohio.gov

#### 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?** R.C. 4121.12, 4121.121, 4121.30, 4121.31, 4123.05
5. **What statute(s) does the rule implement or amplify?** R.C. 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?**

BWC is required to adopt annual changes to its fee schedules via the O.R.C. Chapter 119 rulemaking process. The purpose of this rule is to establish the fees to be paid by BWC 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 BWC proposed changes for this fee schedule are to:

1. Adopt the following benefit plan changes.
    - a. Update general preamble language for selected billing protocols.
      - i. Clarify payment reduction for radiology modifier -FY.
      - ii. Update descriptions for anesthesia modifiers -QX and -QY.
    - b. Add nine additional telemedicine services:
      - i. Seven speech therapy services; and
      - ii. Two cognitive and comprehension testing services.
    - c. Add indicators to identify service codes eligible for date span billing.
  2. Adopt the Medicare 2023 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 4,000+ Healthcare Common Procedure Coding System (HCPCS) codes.
  3. Adopt the following recommendations for the BWC 2024 reimbursement rates:
    - a. Maintain the current percent payment above Medicare rates for CPT<sup>®</sup> codes.
    - b. Maintain current 20% payment above Medicare rates for HCPCS codes.
    - c. Maintain current dental code reimbursement rates.
    - d. Adopt other pricing updates for:
      - i. Hospice services; and
      - ii. Mileage travel services.
- BWC also proposes adoption of new 2024 CPT<sup>®</sup>, HCPCS, and dental code changes.

**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.

4,526,929.76

The projected medical costs impact for the 2024 proposed medical services and Professional Provider fee schedule is an increase in reimbursement of approximately 2.0% over 2023, for a total estimated spend of \$193,149,003.04.

- 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 Medicare methodology has been in use by BWC since 1997, the annual implementation of updates is relatively routine for providers and self-insured employers, so 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 reimbursed 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? 7**

OAC 4123-6-08 Appendix billing code W0100 "Home health agency service requiring the scope of practice of an RN only, per 15 minutes"

OAC 4123-6-08 Appendix billing code W0110 "Home health agency service that may be performed by an RN or LPN, requiring only the scope of practice of an LPN, per 15 minutes."

OAC 4123-6-08 Appendix billing code W0120 "Home health agency service that may be performed by an RN, LPN or home health aide, requiring only the scope of practice of a HHA, per hour."

OAC 4123-6-08 Appendix billing code W0120 "A full 60 minutes must be performed to bill..."

OAC 4123-6-08 Appendix billing code W0120 "...except for the final hour for the day which requires at least 45 minutes of service."

OAC 4123-6-08 Appendix billing code Z0750 "In home hospice continuous health care all-inclusive, RN, per hour during period of crisis to remain at home. Must..."

OAC 4123-6-08 Appendix billing code Z0750 "...require at least 8 hours of RN-CC during the day billed."

**B. How many existing regulatory restrictions do you propose removing from this rule? 0**

**C. If you are not removing existing regulatory restrictions from this rule, please list the rule number(s) from which you are removing restrictions.**

OAC 4123-1-01(A) "Upon the advice and consent of the board, the bureau shall cause to be prepared a notice of hearing"

OAC 4123-1-01(A) "which shall include"

OAC 4123-1-01(B) "The bureau shall cause the previously described notice of hearing to be published..."

OAC 4123-1-01(B) "The publication of said notice of hearing shall be made..."

OAC 4123-1-01(C) "notice of the bureau's intent to consider adoption, amendment, or rescission of any rule pursuant to section 119.03 of the Revised Code shall be posted..."

OAC 4123-1-01(C) "and shall be published at the bureau's website"

OAC 4123-1-01(D) "The bureau shall furnish the public notice"

OAC 4123-1-01(D) "required under section 119.03 of the Revised Code"

OAC 4123-6-02.2(A) "The bureau shall establish minimum criteria for provider certification"

OAC 4123-6-02.2(A) "A provider licensed, certified or accredited pursuant to the equivalent law of another state shall qualify as a provider under this rule in that state"

OAC 4123-6-02.2(B)(2) "Meet other general certification requirements for the specific provider type"

OAC 4123-6-02.2(B)(3) "unless it is not required by the provider's discipline and scope of practice."

OAC 4123-6-02.2(C)(22) "The following facility types shall be credentialed and certified as hospitals"

OAC 4123-6-02.2(C)(48)(d) "Vocational rehabilitation case management interns may not be recertified for additional four-year periods."

**D. Please justify the adoption of the new regulatory restriction(s).**

Needed clarification was added to the description for billing codes W0100, W0110, W0120, and Z0570 regarding payment for home health and in home hospice services in the appendix to OAC 4123-6-08 as to licensure and time frame requirements for billing the codes involved.

These changes were initially adopted in the appendix to the rule as effective May 1, 2023, but inadvertently were not noted on the Rule Summary and Fiscal Analysis for that rule version, so they are being noted here in the RSFA for the 2024 rule.