

Rule Summary and Fiscal Analysis

Part A - General Questions

Rule Number: 4123-6-21.7

Rule Type: Rescission

Rule Title/Tagline: Utilization of opioids in the subacute or chronic phases of pain treatment for a work-related injury or occupational disease.

Agency Name: Bureau of Workers' Compensation

Division:

Address: 30 W. Spring St. Columbus OH 43215

Contact: Aniko Nagy **Phone:** 614-466-3293

Email: aniko.n.1@bwc.state.oh.us

I. Rule Summary

1. **Is this a five year rule review?** Yes
 - A. **What is the rule's five year review date?** 5/29/2020
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, 4121.44, 4121.441, 4123.05
5. **What statute(s) does the rule implement or amplify?** 4121.12, 4121.121, 4121.44, 4121.441,
6. **What are the reasons for proposing the rule?**

Pursuant to R.C. 119.032, state agencies are required to review all agency rules every five years to determine whether to amend the rules, rescind the rules, or continue the rules without change. Due to such review, the Bureau is proposing to rescind this rule and and replace with new rule for the purposes explained below.
7. **Summarize the rule's content, and if this is an amended rule, also summarize the rule's changes.**

This rule provides standards and criteria governing the Bureau's reimbursement of opioid prescriptions used to treat a work related injury or occupational disease in the subacute phase of pain treatment, at high doses, or in the chronic phase of pain treatment, and for discontinuing opioids in the chronic phase of pain treatment.

The Bureau is proposing to rescind this rule and to replace this rule with a new rule - OAC 4123-6-21.7.

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

10. **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

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

This will have no impact on revenues or expenditures.

0.00

Not Applicable.

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

The prescriber and pharmacy business communities are the only two business communities involved with the prescribing and dispensing of opioid medications. The impacted segments of those communities are the Bureau enrolled or certified providers who prescribe opioids for and those network pharmacies enrolled with the bureau that dispense the medications to injured workers covered by the Bureau. The adverse impact of incorporating best practices for opioid prescribing into daily office processes can only be determined by the level of office automation, staff efficiency and commitment of the prescriber and their staff.

13. Does the rule increase local government costs? (If yes, you must complete an RSFA Part B). No
14. Does the rule regulate environmental protection? (If yes, you must complete an RSFA Part C). No
15. 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

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

The Bureau's reimbursement for opioid prescriptions used to treat a work related injury or occupational disease shall be limited to claims in which current best medical practices as implemented by Ohio State Medical Board rule 4731-21-02 and proposed Bureau rule OAC 4123-6-21.7 of the Administrative Code, are followed. The Bureau shall not reimburse for any further prescriptions for opioids, and prescribers should discontinue prescribing opioids, if the applicable criteria of the rules are not met.

- C. Does this rule require specific expenditures or the report of information as a condition of compliance? No
- 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 Restrictions (This section only applies to agencies indicated in R.C. 121.95 (A))

18. 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? 0

B. How many existing regulatory restrictions do you propose removing? 9

4123-6-21.7(C) Mandate that limits reimbursement to claims in compliance with Ohio state medical board rule and this rule.

4123-6-21.7(C) Mandate that the bureau shall not reimburse for any further opioid prescriptions when the medical board rule and this rule are not met.

4123-6-21.7(D)(1) Mandate that reimbursement for opioid prescription during subacute phase shall only be in claims where prescriber has complied with certain documentation requirements in the rule.

4123-6-21.7(E)(1) Mandate that reimbursement for opioid prescriptions at doses greater than eight milligrams per day or in chronic phase shall only be provided where prescriber has provided certain documentation.

4123-6-21.7(E)(2) Mandate that reimbursement for opioid prescriptions at doses greater than one hundred twenty milligrams per day or in chronic phase shall only be provided where prescriber has provided certain documentation

4123-6-21.7(F)(1) Mandate that reimbursement for treatments to assist in the discontinuance of opioid prescriptions in the chronic phase shall only be provided where there is certain documentation in the treatment record.

4123-6-21.7(F)(2)(b) Mandate that all medication prescribed for pain and opioid withdrawal under this section must be prescribed by a single designated prescriber

4123-6-21.7(F)(2)(b) Mandate that any change in prescriber under this section must be approved by the administrator.

4123-6-21.7(F)(2)(c) Mandate that more than two events of non-compliance by an injured worker shall be cause for the bureau to stop reimbursement for interventions directed at treating opioid withdrawal.