Rule Summary and Fiscal Analysis
Part A - General Questions

Rule Number: 4123-6-37.1

Rule Type: Amendment

Rule Title/Tagline: Payment of hospital inpatient services.

Agency Name: Bureau of Workers' Compensation

Division:

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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?** 1/1/2025
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?** 4121.31, 4123.05, 4121.12, 4121.121, 4121.30
5. **What statute(s) does the rule implement or amplify?** 4121.12, 4121.121, 4121.44, 4121.441, 4123.66
6. **What are the reasons for proposing the rule?**

   The Bureau's hospital inpatient reimbursement methodology is based on Medicare's "Medicare severity diagnosis related group" or "MS-DRG" methodology, which is updated annually. Therefore, the Bureau must also annually update rule 4123-6-37.1 of the Administrative Code, to keep in sync with Medicare.
7. **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 of inpatient hospital services for injured workers. For 2021, BWC is proposing to:

• Revise the Federal Register citations to the 2020 regulations, and to the 42 CFR Part 412 citation that is published in the October 1, 2020 C.F.R.

• Adopt version 38.0 of the medicare severity diagnosis related group (MS-DRG) and pricing factors as published in Medicare's Inpatient Prospective Payment System (IPPS) Final Rule.

• Calculate reimbursement for hospital inpatient services using the applicable MS-DRG reimbursement rate multiplied by the payment adjustment factor of 1.127. BWC is also maintaining in the rule that BWC will also reimburse hospitals the Medicare IPPS new technology add-on payment when applicable, but the PAF will not be applied to the new technology add-on payment.

• Maintain the per diem rates to hospitals for direct graduate medical education at one hundred twelve point seven percent (112.7%), using the effective date of the rule, February 1, 2021, as the date for calculating the annual per diem rates for direct graduate medical education.

• Reimburse outliers as determined by the Medicare IPPS outlier methodology. BWC maintains the MS-DRG reimbursement rate multiplied by the payment adjustment factor of 1.127, plus the Medicare operating outlier payment, the Medicare capital outlier payment, and/or the new technology add-on payment, when applicable. The PAF will not be applied to the Medicare operating outlier payment, the Medicare capital outlier payment, or the new technology add-on payment.

• Maintain Medicare IPPS exempt hospitals who submitted a Medicare cost report be reimbursed at the hospital's allowable billed charges times the hospital's operating cost-to-charge ratio in effect on July 1, 2020 multiplied by 1.14, not to exceed seventy percent (70%) of allowed billed charges.

• Maintain Medicare IPPS exempt hospitals who did not submit a Medicare cost report be reimbursed at the hospital's allowable billed charges times the applicable urban or rural statewide average operating cost-to-charge ratio in effect on October 1, 2020 multiplied by 1.14, not to exceed seventy percent (70%) of allowed billed charges.

• Maintain that hospitals who do not participate in the Medicare program continue to be reimbursed at the MS-DRG rate using the National Standardized base rate.

o The proposed rule maintains that a QHP or self-insuring employer may reimburse hospital inpatient services at:

• the applicable rate under the "MS-DRG" methodology; or

• in the same manner as BWC reimburses Medicare IPPS exempt hospitals; or

• the rate negotiated between the hospital and the QHP or self-insuring employer in accordance with rule 4123-6-46 of the Administrative Code.

• Maintain the per diem reimbursement option for hospital inpatient detoxification services. Hospitals electing to receive the per diem rate shall receive the lesser of the per diem rate, the MCO negotiated rate, or the hospital's allowed billed charges.

8. **Does the rule incorporate material by reference?** Yes

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.**

   All materials incorporated as follows in accordance with R.C. 121.75, available online:
   Budget Control Act of 2011, 125 Stat. 239, 2 U.S.C. 900 to 907d; as amended as of the effective date of this rule;
   83 Fed. Reg. 41144-41784 (2020);
   42 C.F.R. Part 412 as published in the October 1, 2020, Code of Federal Regulations;
   Title XVIII of the Social Security Act, 79 Stat. 286 (1965), 42 U.S.C. 1395 to 1395-lll, excluding 42 USC 1395ww(m), as amended as of the effective date of this rule.
   The department of health and human services, centers for medicare and Medicaid service' hospital-specific cost-to-charge ratio information as of the July 2020 update to the department of health and human services, centers for medicare and Medicaid services' inpatient provider specific file (IPSF).

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 increase expenditures.

    930,600

    The projected impact of the above recommendations will be an estimated increase of 3.4 % for 2021.

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

    Implementation of fee schedule changes is a necessary part of yearly methodology updates for both hospitals and self insuring employers. Because this methodology is largely based on Medicare, both hospitals and self insuring employers will realize minimal adverse impacts. It is estimated that self insuring employers and hospitals

would require less than 10 hours of programming time in order to comply with this rule.

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?** No

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

       This rule mainly outlines the rates by which reimbursement is calculated for inpatient services provided by hospitals. Providers must submit reports to the MCOs to receive reimbursement.

    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?** No

A. How many new regulatory restrictions do you propose adding?

Not Applicable

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

Not Applicable