

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?** 4121.12, 4121.121, 4121.30, 4121.31, 4123.05
5. **What statute(s) does the rule implement or amplify?** 4121.12, 4121.121, 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's hospital inpatient reimbursement methodology is based on Medicare's "Medicare severity diagnosis related group" or "MS-DRG" methodology, which is updated annually. Therefore, BWC must also annually update OAC 4123-6-37.1, to

keep in sync with Medicare.

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 of inpatient hospital services for injured workers.

For inpatient services, BWC proposing the following for 2023:

Hospital Inpatient Reimbursement Rule:

- Adopt Medicare 2023 IPPS rule updates
 - o 3.1% increase in the market basket (inflation)
 - o Quality and value related program adjustments (pay for performance)
- Continue to offset Medicare legislative mandates, and
- Adopt a BWC payment adjustment factor (PAF) of 114.3% of the Medicare rate.

9. Does the rule incorporate material by reference? Yes

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.

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;

87 Fed. Reg. 49453 - 49454 (2022);

87 Fed. Reg. 48780 - 49499 (2022);

42 C.F.R. Part 412 as published in the October 1, 2021, Code of Federal Regulations;

Title XVIII of the Social Security Act, 79 Stat. 286 (1965), 42 U.S.C. 1395 to 1395-III, 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 2022 update to the department of health and human services, centers for medicare and Medicaid services' inpatient provider specific file (IPSF)

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.

978,061

The projected impact of the above recommendations will be an estimated increase of 5.1 % for 2023.

13. 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.

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

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 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? 0

B. How many existing regulatory restrictions do you propose removing from this rule? 18

4123-6-37.1(A) "shall"

4123-6-37.1(A)(1)(a) "shall"

4123-6-37.1(A)(1)(b) "shall"

4123-6-37.1(A)(2) "shall"

4123-6-37.1(A)(2) "shall"

4123-6-37.1(A)(2) "shall"

4123-6-37.1(A)(3)(a) "shall"

4123-6-37.1(A)(3)(b) "shall"

4123-6-37.1(A)(4) "shall"

4123-6-37.1(A)(4)(a) "shall"

4123-6-37.1(A)(4)(b) "shall"

4123-6-37.1(A)(4)(b) "shall"

4123-6-37.1(A)(5) "shall"

4123-6-37.1(A)(6) "shall"

4123-6-37.1(A)(7) "shall"

4123-6-37.1(A)(7) "shall"

4123-6-37.1(A)(10) "shall"

4123-6-37.1(B)(2)(b) "shall"

- 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).**

Not Applicable