

## 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, 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. **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?**

Resubmitting the rule to fix a typographical error in paragraph (A)(3) of the rule. There are no substantive changes to the rule as it was previously filed effective February 1, 2024.

**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 2024, BWC is proposing to:

- Adopt Medicare 2024 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
- Adopt a BWC payment adjustment factor (PAF) of 118.1% 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;

42 C.F.R. Part 412 as published in the October 1, 2023 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;

Department of health and human services, centers for medicare and medicaid services' "42 CFR Parts 411, 412, 419, 488, 489 and 495 medicare program; hospital inpatient prospective payment systems for acute care hospitals and the long-term care hospital prospective payment system and policy changes and fiscal year 2024 rates; quality programs and medicare promoting interoperability program requirements for eligible hospitals and critical access hospitals; rural emergency hospital and physician-owned hospital requirements; and provider and supplier disclosure of ownership; and medicare disproportionate share hospital (DSH) payments; counting certain days associated with section 1115 demonstrations in the medicaid fraction final rule," 88 Fed. Reg. 58640 – 59438 (2023);

The department of health and human services, centers for medicare and Medicaid service' hospital-specific cost-to-charge ratio information as of the July 2023 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.

\$1,700,000

The projected impact of the above recommendations will be an estimated increase of 3.7% over estimated 2023 payments.

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

Given the Medicare methodology has been in use by BWC since 2007, the annual implementation of updates is relatively routine for hospitals and self-insured employers. It is estimated that the time needed for implementation will be less than 10 hours.

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 fee bills 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? 1
 

OAC 4123-6-37.1(A)(10) "rural emergency hospital and physician-owned hospital requirements"
  - 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) "the bureau shall obtain the advice and consent of the bureau of workers' compensation board of directors"

OAC 4123-1-01(A) "as required by section 4121.12 of the Revised Code."
  - D. Please justify the adoption of the new regulatory restriction(s).
 

OAC 4123-6-37.1(A)(10) incorporates the title of the Center for Medicare and Medicaid Services' 2024 hospital inpatient prospective payment rule as

published in the Federal Register, and the title of that rule includes a reference to "rural emergency hospital and physician-owned hospital requirements" that was not present in the FY 2023 CMS rule.

This change was initially adopted in the rule as effective February 1, 2024, but inadvertently was not noted on the Rule Summary and Fiscal Analysis for that rule version, so it is being noted here in the RSFA for the corrected rule.