

**MEMORANDUM**

TO: Tom Sico, Bureau of Workers' Compensation

FROM: Paula Steele, Regulatory Policy Advocate

DATE: December 3, 2013

RE: **CSI Review – Claims Procedures** (OAC 4123-3-01, 4123-3-02, 4123-3-03, 4123-3-07, 4123-3-08, 4123-3-09, 4123-3-10, 4123-3-11, 4123-3-14, 4123-3-15, 4123-3-16, 4123-3-17, 4123-3-18, 4123-3-20, 4123-3-22, 4123-3-23, 4123-3-24, 4123-3-25, 4123-3-29, 4123-3-30; 4123-3-31, 4123-3-32, 4123-3-34, 4123-3-35, 4123-3-36, 4123-3-37)

On behalf of Lt. Governor Mary Taylor, and pursuant to the authority granted to the Common Sense Initiative (CSI) Office under Ohio Revised Code (ORC) section 107.54, the CSI Office has reviewed the abovementioned administrative rule package and associated Business Impact Analysis (BIA). This memo represents the CSI Office's comments to the Agency as provided for in ORC 107.54.

Analysis

This rule package consists of twenty-six Bureau of Workers' Compensation (BWC) draft rules including eight no-change, seventeen amended and one rescinded rule and is being reviewed under the five-year rule review as required by ORC 119.032. The draft rules prescribe the procedures for processing injured worker claims. This rule package was filed with the CSI Office on October 28, 2013 with a public comment period ending on November 11, 2013. No comments were received during the public comment period.

The proposed rules provide detailed requirements of injured workers and their representatives, employers (state funded and self-insured), and Managed Care Organizations for navigating injured worker claim procedures. The rules address procedural details including forms, reports, various types of applications, examinations, awards, appellate procedures and more. According to the Bureau, the proposed rules are long-standing procedures and include no substantive changes.

The BIA describes comprehensive outreach that included the Ohio Chamber of Commerce, the Ohio Manufacturers' Association, the Ohio Self-Insurers Association and the Industrial Commission. According to the Bureau, it did not receive any input during the outreach process.

As stated above, there were no public comments for this rule package; however, over recent years the CSI Office has received business comments regarding the claims process. While much of the adjudication of claims takes place under the authority of the Ohio Industrial Commission's administrative rules, the CSI Office followed up with the Bureau to gain a better general understanding of the proposed rules and the level of detail and number of steps in the claims procedures. The Bureau clarified that many of the rule requirements mirror statutory requirements. The Bureau also clarified that according to ORC 4123.511, under certain situations, the Bureau has to reach a decision as to whether the claimant is or is not entitled to an award of compensation or benefits within twenty-eight days. During the discussion, the Bureau acknowledged that it has utilized process improvement methodologies for parts of this process and other processes. According the LeanOhio website¹, in May 2012, the Bureau participated in a Kaizen event for the "additional allowance" portion of the claims process and reported:

"Ultimately, team members reached consensus on a new design that represents a better way of doing business. Much better. The new process has 69% fewer steps. And 67% fewer decision points. And 76% fewer handoffs. And 72% fewer storage-related delays."

The review of a portion of the claims process has yielded significant results, and the process could benefit from further review outside of this rulemaking.

The CSI Office requested a revised BIA to quantify the adverse impacts to business. The revised BIA did not provide quantification of the adverse impact to business; however, the CSI Office has determined that the purpose of the rule is justified.

Recommendations

For the reasons described above, the CSI Office makes the following recommendation for this rule package:

1. The Bureau should discuss with LeanOhio the potential for further opportunities to streamline the claim process.

Conclusion

Based on the above comments, the CSI Office concludes that the Bureau should proceed with the formal filing of this rule package with the Joint Committee on Agency Rule Review.

Cc: Stephen Buehrer, Administrator/CEO, Ohio Bureau of Workers' Compensation

¹ http://lean.ohio.gov/Portals/0/docs/articles/BWC_Allowance_Conditions_Kaizen_May2012.pdf