

**MEMORANDUM**

**TO:** Aniko Nagy, Ohio Bureau of Workers' Compensation

**FROM:** Cory Bailey, Regulatory Policy Advocate, Lt. Governor's Office

**DATE:** January 20, 2016

**RE:** **CSI Review – Ambulatory Surgical Center Arthroplasty Center Requirements; Ambulatory Surgical Center Fee Schedule; Medical Services and Professional Provider Fee Schedule (OAC § 4123-6-02.22; 4123-6-37.3; 4123-6-08)**

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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) § 107.54, CSI has reviewed the abovementioned administrative rules and associated Business Impact Analysis (BIA). This memo represents CSI's comments to the Agency as provided for in ORC § 107.54.

**Analysis**

The Ohio Bureau of Workers' Compensation (BWC) has submitted three draft rule packages to the CSI Office for review. The draft rule packages consist of three rules in total, two amended rules and one new rule. Although the rule packages were submitted to the CSI Office separately, due to the similarity in content, this recommendation will address them together.

The two amended draft rules, OAC § 4123-6-37.3 and 4123-6-08, cover fee schedules for ambulatory surgical centers and professional providers, respectively. Both rules establish the reimbursement fees providers receive from BWC for services performed for injured workers. The fee schedules are updated annually and the suggested changes represent the update for 2016.

The new rule, OAC § 4123-6-02.22, establishes requirements for the ambulatory surgical center arthroplasty program. According to the BIA, the rule expands coverage of certain joint replacement procedures to ambulatory surgical centers. Many of the procedures are currently covered only when performed in a hospital setting. The rule creates requirements arthroplasty centers must meet in order to be eligible for participation in the program. Included in the requirements are experience standards for performing the procedures, policy requirements for

patient selection, and the reporting of quality data measures.

No comments were submitted during the CSI public comment period. However, a handful of comments were submitted during early stakeholder outreach. For the professional provider fee schedule, comments were mainly concerned with reimbursement levels, but also addressed a wording issue and costs for labor/repair and shipping. Additionally, the Ohio Association of Ambulatory Surgical Centers (OAASC) provided feedback on the arthroplasty program requirements and the ambulatory surgery center fee schedule. The comments asked for clarification regarding the experience standards, suggested BWC consider a different set of arthroplasty procedures for the program, and questioned reimbursement levels. For each of the comments, BWC provided detailed replies explaining their position and when appropriate, changes were made to the rules to incorporate stakeholder suggestions.

The adverse impacts to business resulting from the draft rules apply to providers of medical and professional services to injured workers, particularly ambulatory surgical centers, and self-insuring employers. For the fee schedule rules, the adverse impacts are primarily the time and cost of implementing the changes, which are fairly minimal. Reimbursement rates themselves do not constitute an adverse impact to business as described in ORC 107.52, and therefore are not reviewed during the CSI process. The adverse impacts for the arthroplasty program are more substantial. They include the requirements that ambulatory surgical centers must meet in order to qualify for the Health Partnership Program, such as the experience standards, policy requirements, and reporting requirements.

While these impacts are worth noting, they are reasonable. The requirements for the ambulatory surgical centers ensure an adequate level of care without being overly burdensome. As a result, following review of the draft rules, BIA, and stakeholder outreach, it has been determined that the standards espoused by the CSI Office have been met, and the adverse impacts of the new rule and proposed amendments are justified.

### **Recommendations**

For the reasons discussed above, the CSI Office does not have any recommendations for this rule package.

### **Conclusion**

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