

**MEMORANDUM**

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

**FROM:** Sydney King, Regulatory Policy Advocate

**DATE:** July 6, 2016

**RE:** **CSI Review – Opioid Prescribing, Peer Review, and Provider Decertification Rules (OAC 4123-6-21.7, 4123-6-02.7, 4123-6-21.2, and 4123-6-22)**

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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) 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 one new and three amended rules proposed by the Ohio Bureau of Workers' Compensation (BWC). The rule package was submitted to the CSI Office on May 31, 2016 with the comment period for the rule closing on June 22, 2016. No comments were received during this time.

The rule package establishes requirements for the Health Care Quality Assurance Advisory Committee, the Pharmacy and Therapeutics Committee, and the utilization of opioids in pain treatment for work-related injuries or occupational diseases. New Rule 4123-6-21.7 is created to provide enhanced safety and efficacy in the use of opioid medications prescribed to treat injured workers. The rule establishes standards and criteria for providers when utilizing opioid prescriptions "to treat a work related injury or occupational disease in the subacute phase of pain treatment, at high doses, or in the chronic phase of pain treatment, and for discontinuing opioids in the chronic phase of pain treatment."<sup>1</sup> Further, the rule states that upon its effective date, BWC

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<sup>1</sup> BWC Business Impact Analysis, page 2

will no longer reimburse providers for opioid prescriptions unless best practices established by the Bureau and the Ohio State Medical Board are followed. The amendments to Rules 4123-6-02.7, 4123-6-21.2, and 4123-6-22 strengthen BWCs ability to prevent the abuse of opioids and encourage best practice by allowing peer review of provider treatment when compliance with the regulations is in question.

According to the BIA, the impacted community consists of prescribers and pharmacies. BWC performed early stakeholder outreach seeking feedback from medical providers, managed care organizations, the Health Care Quality Assurance Advisory Committee, employer organizations, and the Ohio Association for Justice. BWC provided the comments that were received during early drafting and BWC's response to the feedback in the BIA. Although the BIA states there is no impact to providers currently incorporating the treatment and monitoring steps identified as best practices in Rule 4123-6-21.7, it is evident that rule requires providers to maintain detailed documentation regarding the patient's condition and the utilization of opioids to treat that injury or disease. However, the adverse impacts found in the regulation are necessary to assist in preventing the injured workers from abusing opioids. According to the BIA, the current opioid drug crisis in Ohio is linked to the inappropriate utilization of prescription opioid medications. Therefore, the costs associated with monitoring and documenting the use of opioids for treatment of work-related injuries or occupational diseases are justified.

### **Recommendation**

For the reasons explained 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 Bureau of Workers' Compensation should proceed with the formal filing of this rule package with the Joint Committee on Agency Rule Review.

cc: Mark Hamlin, Lt. Governor's Office