

**MEMORANDUM**

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

**FROM:** Tess Eckstein, Regulatory Policy Advocate

**DATE:** February 10, 2017

**RE:** **CSI Review – Fee Schedules and Payments for Medical Services (OAC 4123-6-08, 4123-6-37.2, 4123-6-37.3)**

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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 three amended rules being proposed by the Ohio Bureau of Workers' Compensation (BWC). The rule package was submitted to the CSI Office on January 11, 2017, and the comment period remained open until February 2, 2017.

The proposed rules and their appendices address different types of fee schedules: medical services and professional providers, outpatient hospitals, and ambulatory surgical centers. More specifically, each rule establishes reimbursement fees to be paid by BWC to providers of the referenced types of services for injured workers. These fee schedules are updated annually, so proposed amendments represent the 2017 updates. For example, BWC has proposed to adopt updates to the current Ohio provider specialty conversion factors, modifications to payment adjustment factors, and coverage of two arthroplasty procedures (total knee replacement and total hip replacement).

The rules impact those who provide services to injured workers, including providers of medical and professional services, hospitals and facilities that provide outpatient care, and ambulatory surgical centers. In the case of each rule, self-insuring employers that administer the program are also impacted. Potential adverse impacts of the rules include the time and expense necessary for

providers and employers to implement any changes needed to remain in compliance with the rules. It is estimated that these programming changes and billing system updates should take less than 20 hours for medical services and professional providers, and less than 10 hours for outpatient hospitals and ambulatory surgical centers. BWC indicated in the BIA that these adverse impacts are justified because BWC is responsible for implementing rules to effectively establish fees to be paid by BWC to providers of the referenced services. The intent of this requirement is to ensure that Ohio's injured workers have consistent access to quality healthcare. Appropriate and timely reviews of fee schedules lead to relevant modifications being made, which creates a competitive reimbursement level for these services. In addition, alternative methodologies in the rules provide flexibility in hospital reimbursement for self-insured employers.

Between August and November 2016, BWC sought comment on each of the drafted rules from multiple stakeholder groups, including but not limited to managed care organizations, BWC's Healthcare Quality Assurance Advisory Committee, employer organizations, and those on a variety of BWC distribution lists. From these distributions, BWC received comments on only one rule, "Ambulatory surgical center fee schedule" (4123-6-37.3). The Ohio Association of Ambulatory Surgery Centers (OAASC) submitted several questions and comments, each of which BWC addressed in response to comments. Ultimately, BWC and OAASC committed to continuing to work together in 2017 on overall ambulatory surgery center cost/reimbursement structures for orthopedic procedures. No comments were submitted during the CSI public comment period. Therefore, the CSI Office has determined the purpose of the rules to be 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.

cc: Mark Hamlin, Lt. Governor's Office