



Common Sense Initiative

Mike DeWine, Governor
Jon Husted, Lt. Governor

Carrie Kuruc, Director

MEMORANDUM

TO: Ohio Bureau of Workers Compensation

FROM: Ethan Wittkorn, Regulatory Policy Advocate

DATE: March 15, 2019

RE: CSI Review – BWC Claims Procedure Rules (OAC 4123-3-02, 412-3-11, 4123-3-14, 4123-3-15.1, 4123-3-17, 4123-3-23, 4123-3-24, 4123-3-25, 4123-3-29, 4123-3-32, 4123-3-35, 4123-3-01, 4123-3-03, 4123-3-07, 41233-08, 4123-3-09, 4123-3-10, 4123-3-15, 4123-3-16, 4123-3-18, 4123-3-20, 4123-3-22, 4123-3-31, 4123-3-34, 4123-3-36, 4123-3-37, and 4123-3-38)

On behalf of Lt. Governor Jon Husted, 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 Ohio Bureau of Workers' Compensation (BWC) rule package consists of 28 rules submitted for review (12 no change, and 16 amended—The BIA contains a typo. The headings say 15 amended rules, but the lists of rule numbers contain 16 separate amended rules). This rule package was submitted to the CSI Office on January 7th, 2019 and the public comment period was open through January 30th, 2019.

These 28 rules are under review as part of the statutory five-year review process, and they outline the rules and procedures for a workers' compensation claim. For example, there are amendments to 16 rules covering forms, reports of payments by self-insuring employers, procedure in the original adjudication of noncomplying employers' claims, dismissal of an application for the determination of percentage of permanent partial disability, etc. Another 12 procedural rules remain unchanged.

BWC proposed these amendments to their board (which consists of representatives for injured

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workers, employers, and professional members), their external rules distribution list (including the Ohio Association for Justice, The Ohio Chamber of Commerce, the Ohio Manufacturers' Association, and the Ohio Self-Injured Association). In addition, the draft rules were distributed to the Industrial Commission.

During the public comment period, the Bureau received several comments from the National Federation of Independent Business (NFIB). For example, NFIB suggested a potential time frame during which the BWC, MCO or Industrial Commission must forward the document to its destination. BWC reviewed this concern and replied that a timeframe will be addressed in the contract between BWC and the MCOs, given the differing timeframes for document types. The Ohio Manufacturers' Association made similar comments and suggestions that led BWC to make changes to some of its rules.

The impact of this rule package is on injured workers and their representatives, employers and their representatives, providers, and MCOs. The impact consists of compliance with the updated procedures outlined in the rules and the time limitations of those procedures. However, all time limits are required by Chapter 4123 of the Revised Code. The parties assume costs as part of the claims process. The exact cost impact to each party processing a claim will vary because each claim is fact-specific.

Recommendations

Based on the information above, the CSI Office has no recommendations regarding this rule package.

Conclusion

The CSI Office concludes that the BWC should proceed with the formal filing of this rule package with the Joint Committee on Agency Rule Review.