



## Common Sense Initiative

**Mike DeWine**, Governor  
**Jon Husted**, Lt. Governor

**Carrie Kuruc**, Director

### MEMORANDUM

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

**FROM:** Ethan Wittkorn, Regulatory Policy Advocate

**DATE:** February 27, 2020

**RE:** CSI Review – Medical Services and Professional Provider Fee Schedule (4123-6-08)

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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 Bureau as provided for in ORC 107.54.

#### Analysis

This Ohio Bureau of Workers' Compensation (Bureau) rule package consists of one amended rule, submitted as part of the statutory five-year review process. This rule package was submitted to the CSI office on January 14, 2020, and the public comment period was open through February 6, 2020. Unless otherwise noted below, this recommendation reflects the version of the proposed rules filed with the CSI office on January 14, 2020.

The proposed rule covers fees that the Bureau pays to providers for the medical and professional services rendered to injured workers. Amendments to the fee schedule include increases in conversion factors for anesthesia services, the adoption of 2020 Current Procedural Terminology and Health Care Procedural Coding Systems, the adoption of 2019 Medicare Professional Provider and Medical Services rule, and modification and maintenance of Medicare base rates based on inflation. Additional changes have been made to benefit plans that include changes of terms, clarification, additional dental codes, and additional skilled nursing facility codes.

During the period of early stakeholder outreach, the Bureau solicited feedback from internal groups

77 SOUTH HIGH STREET | 30TH FLOOR | COLUMBUS, OHIO 43215-6117

[CSIPublicComments@governor.ohio.gov](mailto:CSIPublicComments@governor.ohio.gov)

and employer organizations such as the Ohio Manufacturers Association, the National Federation of Independent Business, and the Ohio Chamber of Commerce. Additionally, the Bureau sought comment from the Ohio Attorney General's office. Stakeholders including the Ohio Physical Therapists Association, Ohio Occupational Therapists Association, and the Ohio Athletic Trainers Association offered comments about the potential addition of a special local Ohio Functional Capacity Evaluation (FCE) service code. The Bureau did not make any changes due to comments and noted that it is uncommon for states to adopt local FCE codes and those that do adopt them heavily restrict their use. Additional comments from the Ohio Health Care Association expressed support for the adoption of a local code for skilled nursing facilities but expressed concern with the proposed rate of \$450. The Bureau replied that their analysis supports the proposed rates, but the rule does not prohibit facilities from requesting payment above the fee schedule. No comments were received during the CSI public comment period.

Impacted communities include providers of medical and professional services and self-insured employers administering self-insurance programs. Impacts associated with the proposed rule include administrative costs and the time it takes providers to implement changes in the fee schedule. The Bureau argues that the annual implementation of updates is an ongoing practice and is familiar to most providers and estimates the time necessary for implementation to be less than 20 hours. It states that the rule is necessary to ensure injured workers access to care, and to create a competitive reimbursement level for services rendered. The BWC cites ORC 4121.441, and 4123.66 as authorizing statutes.

### **Recommendations**

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

### **Conclusion**

The CSI Office concludes that the Bureau should proceed in filing the proposed rules with the Joint Committee on Agency Rule Review.