



## 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:** November 13, 2020

**RE:** CSI Review – Payment of Hospital Inpatient Services (OAC 4123-6-37.1)

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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 (BWC) rule package consists of one amended rule submitted as part of the statutory five-year rule review requirement. It was submitted to the CSI Office on September 30, 2020, and the public comment period was open through October 20, 2020. Unless otherwise noted below, this recommendation reflects the version of the proposed rule filed with the CSI Office on September 30, 2020.

The proposed rule establishes fees to be paid by the BWC to inpatient hospital service providers for services provided to injured workers. Amendments are proposed to adopt Medicare updates to standardized amounts, Medicare severity diagnosis related group (MS-DRG) changes, International Classification of Diseases tenth revision (ICD-10) updates, relative weight updates, and quality and value related programs. Further amendments are proposed to apply the BWC payment rate adjustment factor to the 2021 Medicare base service rates, including 112.7% for MS-DRG base rates and direct graduate medical education services. Additional changes allow payment to Medicare inpatient prospective payment system (IPPS) exempt hospitals at allowable billed charges times the hospital's operating cost-to-charge ratio multiplied by 1.14, not to exceed 70% of allowed billed

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charges. Lastly, updates were made to maintain that a qualified health plan (QHP) or self-insuring employer may reimburse hospital inpatient services at the applicable rate under MS-DRG methodology, in the manner that the BWC reimburses Medicare IPPS exempt hospitals or in the rate negotiated between a hospital and the QHP or self-insuring employer, for the year 2021.

During the period of early stakeholder outreach, the BWC posted the proposed rule on its website and emailed a notice to stakeholder groups, including managed care organizations, providers, BWC work groups, the Ohio Association for Justice, self-insuring employers, third party administrators, and employer organizations such as the Council of Smaller Enterprises, the Ohio Manufacturers' Association, the National Federation of Independent Business, and the Ohio Chamber of Commerce. During this period, one comment was submitted by the Ohio Hospital Association during a July 2020 meeting that expressed general support for the proposed rule. No comments were received during the CSI public comment period.

Impacted communities include hospitals that provide inpatient care to injured workers and self-insured employers administering the program. Potential adverse impacts identified by the BWC include administrative time and costs necessary to implement the fee schedule changes. The BWC asserts that since Medicare methodology has been in use since 2007, and annual updates are routine, the time necessary for implementation should be less than ten hours. The BWC states that the rules ensure that Ohio's injured workers have access to quality healthcare and create a competitive reimbursement level for services.

### **Recommendations**

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

### **Conclusion**

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