Rule Summary and Fiscal Analysis (Part A)

Bureau of Workers' Compensation
Agency Name

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4123-6-21.1 **AMENDMENT**
Rule Number TYPE of rule filing

Rule Title/Tag Line **Payment for outpatient medication by self-insuring employer.**

RULE SUMMARY

1. Is the rule being filed consistent with the requirements of the RC 119.032 review? **No**

2. Are you proposing this rule as a result of recent legislation? **No**

3. Statute prescribing the procedure in accordance with the agency is required to adopt the rule: **119.03**

4. Statute(s) authorizing agency to adopt the rule: **4121.12 , 4121.121 , 4121.30**

5. Statute(s) the rule, as filed, amplifies or implements: **4121.44 , 4123.66**

6. State the reason(s) for proposing (i.e., why are you filing,) this rule:

The Bureau is proposing amendments to this rule to create a standard process used for weaning certain prescription drugs applicable to injured workers.

7. If the rule is an AMENDMENT, then summarize the changes and the content of the proposed rule; If the rule type is RESCISSION, NEW or NO CHANGE, then summarize the content of the rule:

The proposed change will require self-insuring employers to utilize the weaning tables listed in the appendix to proposed Bureau rule 4123-6-21.5 of the Administrative Code.

8. If the rule incorporates a text or other material by reference and the agency claims the incorporation by reference is exempt from compliance with sections 121.71 to 121.74 of the Revised Code because the text or other material is **generally available** to persons who reasonably can be expected to be affected by the rule, provide an explanation of how the text or other material is generally available to those persons:

This response left blank because filer specified online that the rule does not incorporate a text or other material by reference.

9. If the rule incorporates a text or other material by reference, and it was **infeasible** for the agency to file the text or other material electronically, provide an explanation of why filing the text or other material electronically was infeasible:

This response left blank because filer specified online that the rule does not incorporate a text or other material by reference.

10. If the rule is being **rescinded** and incorporates a text or other material by reference, and it was **infeasible** for the agency to file the text or other material, provide an explanation of why filing the text or other material was infeasible:

Not Applicable.

11. If **revising** or **refiling** this rule, identify changes made from the previously filed version of this rule; if none, please state so. If applicable, indicate each specific paragraph of the rule that has been modified:

Not Applicable.

12. 119.032 Rule Review Date: **11/1/2014**

(If the rule is not exempt and you answered NO to question No. 1, provide the scheduled review date. If you answered YES to No. 1, the review date for this rule is the filing date.)

NOTE: If the rule is not exempt at the time of final filing, two dates are required: the current review date plus a date not to exceed 5 years from the effective date for Amended rules or a date not to exceed 5 years from the review date for No

Change rules.

FISCAL ANALYSIS

13. Estimate the total amount by which *this proposed rule* would **increase / decrease** either **revenues / expenditures** for the agency during the current biennium (in dollars): Explain the net impact of the proposed changes to the budget of your agency/department.

This will have no impact on revenues or expenditures.

0.00

BWC is already providing reimbursement during the weaning periods for these medications as a matter of policy.

These services are paid out of BWC's State Insurance Fund as injured workers benefits. Therefore, there is no net impact to BWC's appropriated administrative budget.

14. Identify the appropriation (by line item etc.) that authorizes each expenditure necessitated by the proposed rule:

n/a

15. Provide a summary of the estimated cost of compliance with the rule to all directly affected persons. When appropriate, please include the source for your information/estimated costs, e.g. industry, CFR, internal/agency:

The adverse impact on the self-insured (SI) employers would be that they would continue to pay for denied opiate and benzodiazepine prescriptions during any required weaning period. This is the current situation for State Insurance Fund (SIF)employers when one of these drugs is denied in their claims.

In 2012, the average BWC cost of an opiate prescription was $86.00 and the average for an anti-anxiety prescription was $14.78. The most frequent weaning period for SIF workers on these medications was 60 days. Based on these averages, every opiate prescription denied and weaned could cost the SI employer an additional 2 months of prescriptions at $172.00 and 2 months of anti-anxiety medications at $30 or a total of $202.00 for the average weaning period if both drugs are involved.

Again assuming that every SI drug utilization review ended in a denial that was upheld by the Industrial Commission, the 3,700 opiate claims for two additional months could cost the SI employers overall an additional $747,000, plus an

additional $21,000 for the 700 anti-anxiety prescriptions. The maximum estimated cost of this rule to self insured employers overall would be $789,000 per year. A most likely scenario based on BWC's experience with reviews and IC hearings is that 44% of the denials were upheld on appeal, so a much more likely overall cost would be in the neighborhood of $347,000.

16. Does this rule have a fiscal effect on school districts, counties, townships, or municipal corporations? **No**

17. Does this rule deal with environmental protection or contain a component dealing with environmental protection as defined in R. C. 121.39? **No**

S.B. 2 (129th General Assembly) Questions

18. Has this rule been filed with the Common Sense Initiative Office pursuant to R.C. 121.82? **Yes**

19. Specific to this rule, answer the following:

A.) Does this rule require a license, permit, or any other prior authorization to engage in or operate a line of business? **No**

B.) Does this rule impose a criminal penalty, a civil penalty, or another sanction, or create a cause of action, for failure to comply with its terms? **No**

C.) Does this rule require specific expenditures or the report of information as a condition of compliance? **Yes**

Self-insuring employers will be required to reimburse for denied drugs during the weaning period specified in the appendix to rule 4123-6-21.5.