Rule Summary and Fiscal Analysis
Part A - General Questions

Rule Number: 4123-6-21.1

Rule Type: Amendment

Rule Title/Tagline: Payment for outpatient medication by self-insuring employer.

Agency Name: Bureau of Workers' Compensation

Division:

Address: 30 West Spring Street Columbus OH 43215

Contact: Eva Dixon **Phone:** 614-644-8346

Email: Eva.d.2@bwc.ohio.gov

I. Rule Summary

1. **Is this a five year rule review?** No

    A. **What is the rule's five year review date?** 8/1/2025

2. **Is this rule the result of recent legislation?** No

3. **What statute is this rule being promulgated under?** 119.03

4. **What statute(s) grant rule writing authority?** 4121.12, 4121.121, 4121.30, 4121.31, 4121.44, 4121.441, 4123.05, 4123.35, 4123.66

5. **What statute(s) does the rule implement or amplify?** 4121.12, 4121.121, 4121.44, 4121.441, 4123.66

6. **Does the rule implement a federal law or rule in a manner that is more stringent or burdensome than the federal law or regulation requires?** No

    A. **If so, what is the citation to the federal law or rule?** Not Applicable

7. **What are the reasons for proposing the rule?**

    Self-insuring employers are required to pay benefits equal to or greater than BWC, where applicable BWC is proposing to make changes parallel to those proposed in OAC 4123-6-21 in the Chapter 4123-6 self-insuring employer outpatient medication

rule, OAC 4123-6-21.1. The rule is being amended to change the components of the payment methodology for medications to pharmacy providers to include a cost component of average wholesale price minus a percentage and a dispensing fee at a flat rate as determined by BWC and subject to annual review.

8. **Summarize the rule's content, and if this is an amended rule, also summarize the rule's changes.**

   This rule governs reimbursement of outpatient medication by self-insuring employers.

9. **Does the rule incorporate material by reference?** Yes

10. **If the rule incorporates material by reference and the agency claims the material is exempt pursuant to R.C. 121.75, please explain the basis for the exemption and how an individual can find the referenced material.**

    BWC Provider Billing and Reimbursement Manual, in effect on the billed date(s) of service.

11. **If revising or re-filing the rule, please indicate the changes made in the revised or re-filed version of the rule.**

    Not Applicable

II. Fiscal Analysis

12. **Please estimate the increase / decrease in the agency's revenues or expenditures in the current biennium due to this rule.**

    This will have no impact on revenues or expenditures.

    $0.00

    No fiscal effects expected on current or future budgets.

13. **What are the estimated costs of compliance for all persons and/or organizations directly affected by the rule?**

    All medical and pharmacy services providers are directly affected by this rule and the estimated cost of compliance is the time for reviewing or receiving education on the changes, as well as applying any modifications to relevant systems.

14. **Does the rule increase local government costs? (If yes, you must complete an RSFA Part B).** No

15. **Does the rule regulate environmental protection? (If yes, you must complete an RSFA Part C).** No

16. **If the rule imposes a regulation fee, explain how the fee directly relates to your agency's cost in regulating the individual or business.**

    Not Applicable.

III. Common Sense Initiative (CSI) Questions

17. **Was this rule filed with the Common Sense Initiative Office?** Yes

18. **Does this rule have an adverse impact on business?** Yes

    A. **Does this rule require a license, permit, or any other prior authorization to engage in or operate a line of business?** Yes

    Medication may only be prescribed by a treating provider that is authorized by law to prescribe medication.

    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

    The pharmacy provider must include prescriber information with the bills submitted electronically for payment, including the prescriber's NPI and DEA number, the pharmacy provider must submit for billing the national drug code of the stock bottle from which the dispensed medication is obtained.

    D. **Is it likely that the rule will directly reduce the revenue or increase the expenses of the lines of business of which it will apply or applies?** Yes

    The potential impact on each individual pharmacy may increase or decrease depending on the number of workers' compensation patients, prescription volume, the mix of dispensed brand and generic medications, and the maximum allowable cost list of the self-insuring employer's contracted pharmacy benefits manager under OAC 4123-6-21.1(N), if applicable.

IV. Regulatory Restriction Requirements under S.B. 9. Note: This section only applies to agencies described in R.C. 121.95(A).

19. Are you adding a new or removing an existing regulatory restriction as defined in R.C. 121.95? Yes

A. How many new regulatory restrictions do you propose adding to this rule? 0

B. How many existing regulatory restrictions do you propose removing from this rule? 2

4123-6-21.1(E)(3)
The dispensing fee component for non-sterile compounded prescriptions shall be eighteen dollars and seventy-five cents.

4123-6-21.1(E)(4)
The dispensing fee component for sterile compounded prescriptions shall be thirty-seven dollars and fifty cents.

C. If you are not removing existing regulatory restrictions from this rule, please list the rule number(s) from which you are removing restrictions.

D. Please justify the adoption of the new regulatory restriction(s).

Not Applicable