

Rule Summary and Fiscal Analysis

Part A - General Questions

Rule Number: 4123-6-21

Rule Type: Amendment

Rule Title/Tagline: Payment for outpatient medication.

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? Yes

A. What is the rule's five year review date? 7/30/2025

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, 4123.66

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?

Five year review.

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

This rule governs reimbursement for outpatient medication by BWC in State Insurance Fund claims. The proposed changes:

Remove language regarding claims recognized by self-insuring employers, as this rule applies to State Insurance Fund claims.

Add language that prescriptions from non-Bureau certified providers may be reimbursed if they meet the criteria of the first fill rule O.A.C. 4123-6-21.6.

Incorporate by reference the Ohio Board of Pharmacy rules on opiate prescribing currently found in Bureau rule O.A.C. 4123-6-21.7 as that rule is being rescinded.

Require that reimbursement requests for non-sterile compounded prescriptions be preauthorized.

Add home infusion services to the drugs which may be approved by the MCO as part of a comprehensive treatment plan.

Add that only pharmacy providers may receive a dispensing fee component.

Add language to allow for exceptions to the dispensing fee component when a prescription is filled in a state that has enacted a law requiring a different minimum dispensing fee.

Establish the dispensing fee for sterile and non-sterile compounded prescriptions.

Clarify the exception for the Bureau to override dispensing limitations when an emergency is declared to include a declaration by the Governor of the state in which the injured worker is located.

Add an exception for the Bureau to override dispensing limitations when medical necessity and appropriateness have been determined by the Bureau through the prior authorization process.

Remove requirement that prescriber information within bills submitted electronically to the Bureau or the Bureau's PBM for payment include the prescriber's DEA number.

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.

FDA publication: "Approved Drug Products With Therapeutic Equivalence Evaluations" in effect on the billed date(s) of service.

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

This will have no impact on revenues or expenditures.

- 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 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?** No

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?**
2

4123-6-21(F)(1)(a) A prior authorization request for compounded prescriptions must be submitted

4123-6-21(H)(2) Unless a different dispensing fee is required by law for the state in which the pharmacy is located for prescriptions filled outside of Ohio,

- B. How many existing regulatory restrictions do you propose removing from this rule?** 5

4123-6-21(E)(2)(b) Reimbursement for non-sterile compounded prescriptions shall only be considered ...

4123-6-21(E)(2)(b)(ii) The prescription must comply with ...

4123-6-21(E)(2)(b)(ii) ... the Ohio state board of pharmacy requirements for a valid prescription

4123-6-21(G)(4) The dispensing fee component for sterile compounded prescriptions shall be thirty-seven dollars and fifty cents.

4123-6-21(K)(3) Requests submitted that exceed any published days supply limit or maximum quantity limit shall be denied.

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).

4123-6-21(F)(1)(a) is being amended to clarify that providers must submit a prior authorization request for compounded prescriptions for such requests to be considered for reimbursement.

4123-6-21(H)(2) is being amended to clarify that the dispensing fee paid by BWC will be the applicable fee set forth in the rule unless a different dispensing fee is required by law for the state in which the pharmacy is located for prescriptions filled outside of Ohio. In that case, the dispensing fee paid will be the dispensing fee required in the other state.