

Rule Summary and Fiscal Analysis

Part A - General Questions

Rule Number: 4123-6-38.1

Rule Type: Amendment

Rule Title/Tagline: Payment for nursing and caregiver services provided by persons other than home health agency employees.

Agency Name: Bureau of Workers' Compensation

Division:

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I. Rule Summary

1. Is this a five year rule review? Yes
 - A. What is the rule's five year review date? 11/12/2021
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. What are the reasons for proposing the rule?

Pursuant to R.C. 119.032, state agencies are required to review all agency rules every five years to determine whether to amend the rules, rescind the rules, or continue the rules without change. Due to such review, the Bureau is proposing to amend this rule for the purposes explained below.
7. Summarize the rule's content, and if this is an amended rule, also summarize the rule's changes.

This rule provides for grandfathered payment for nursing and caregiver services provided by persons other than home health agency employees. The proposed changes are to:

- * Remove language citing specific credentialing agencies or organizations and add language cross referencing credentialing Ohio Administrative Code rule 4123-6-02.2.
- * Replace "claimant" with "injured worker".
- * Remove and replace "his/her" with plural pronouns.
- * Remove language discussing part-time care and cross-reference Ohio Administrative Code rule 4123-6-38.
- * Remove requirement that the services are necessary as a "direct" result of the allowed injury.

- 8. Does the rule incorporate material by reference? No**
- 9. 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.**

Not Applicable

- 10. 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

- 11. 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

Not Applicable.

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

This rule directly affects nursing and caregiver services provided by persons other than home health agency employees and claimants. There is no cost of compliance associated with this rule.

13. Does the rule increase local government costs? (If yes, you must complete an RSFA Part B). No
14. Does the rule regulate environmental protection? (If yes, you must complete an RSFA Part C). No
15. 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

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

In the event the caregiver is no longer able to provide approved services or if services are stopped and later restarted, services shall be provided only by an employee of a home health agency certified by BWC pursuant to OAC 4123-6-02.2.
 - 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? No
 - 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 Restrictions (This section only applies to agencies indicated in R.C. 121.95 (A))

18. Are you adding a new or removing an existing regulatory restriction as defined in R.C. 121.95? No

A. How many new regulatory restrictions do you propose adding?

Not Applicable

B. How many existing regulatory restrictions do you propose removing?

Not Applicable