Hearing Summary Report

Note: Upload completed document to the Electronic Rule Filing System.

Hearing Date: 12/5/2024 Today's Date: 12/9/2024

Agency: Ohio Bureau of Workers' Compensation

Rule Number(s): 4123-6-21, 4123-6-21.1

If no comments at the hearing, please check the box. ☐

List organizations or individuals giving or submitting testimony before, during or after the public hearing and indicate the rule number(s) in question.

1. Kelly Roush, DC CCSP ATC (Holzer) OAC 4123-6-21 & 4123-6-21.1
2. Adam Fowler, Director, Workers' Compensation Regulatory Affairs, MyMatrixx by Evernorth, OAC 4123-6-21.1
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Consolidated Summary of Comments Received

Please review all comments received and complete a consolidated summary paragraph of the comments and indicate the rule number(s).

Kelly Roush, DC CCSP ATC (Holzer) OAC 4123-6-21 & 4123-6-21.1

I have reviewed and agree with these rule revisions.

Adam Fowler, Director, Workers' Compensation Regulatory Affairs, MyMatrixx by Evernorth, OAC 4123-6-21.1:

MyMatrixx supports the BWC's proposed alignment of this self-insuring employer rule with the state fund rule (4123-6-21) with respect to the dollar cap placed on reimbursement for compounded medications. Currently, the maximum product cost component reimbursement for any one non-sterile compounded prescription for state fund claims is $100, but the cap for self-insuring employer claims is $400. The proposed changes would decrease the self-insuring employer claim cap to $100 so that it aligns with the cap for state fund claims. We support the attempt at parity in this proposed change to ensure some employers are not paying more than others for the same category of medications, which has created a disparity.

In addition to our support for the parity in compound reimbursement, we also would request clarification from the BWC on the intent behind removing the specific fee schedule rates, including the specific AWP discounts and dispensing fee dollar amounts, from the self-insuring employer rule. In lieu of spelling those rates out, the proposed language would state that those rates would instead be "determined by the bureau, subject to annual review." Is the BWC intending to take the specific reimbursement rates and changes to them out of the formal rulemaking process itself? Though the language in the proposed rule does not describe what that annual review process would look like, it may be important for the BWC to spell out that process so that stakeholders know what to anticipate and how to take part in any comment period afforded to them for those types of changes before they are implemented. To that end, we strongly encourage that any changes to those rates still be subject to public review and comment prior to adoption, along with sufficient time from adoption for stakeholders to implement the new rates by the effective date of such changes.

Incorporated Comments into Rule(s)

Indicate how comments received during the hearing process were incorporated into the rule(s). If no comments were incorporated, explain why not.

BWC response to Adam Fowler, Director, Workers' Compensation Regulatory Affairs, MyMatrixx by Evernorth, OAC 4123-6-21.1:

Thank you for your comments.

BWC recognizes the importance of stakeholders having the opportunity for public review and comment before changes to specific reimbursement rates are implemented, and of stakeholders being provided sufficient notice of such changes to allow adequate time for implementation.

While the formal rulemaking process inherently incorporates such features, BWC also acknowledges that the proposed "annual review process" in rule 4123-6-21.1 could be clarified to ensure that similar safeguards would be provided.

Therefore, upon review, BWC is placing rule 4123-6-21.1 and its state fund equivalent rule 4123-6-21 in To Be Refiled status with the Joint Committee on Agency Rule Review (JCARR), which will allow us the opportunity and the time necessary to more fully consider how to better address the issues you have raised.

Stakeholders will be notified whenever BWC proceeds further with the rules, and will be able to review and provide comment on any subsequent revisions to the rules BWC may propose at that time.

Thank you again for your consideration in this matter.