



Common Sense Initiative

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Business Impact Analysis

Agency, Board, or Commission Name: Ohio Bureau of Workers' Compensation

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Regulation/Package Title (a general description of the rules' substantive content):

Vocational rehabilitation provider rules and fee schedule

Rule Number(s): 4123-18-09, 4123-18-04, 4123-18-21

Date of Submission for CSI Review: April 29, 2025

Public Comment Period End Date: May 13, 2025

Rule Type/Number of Rules:

New/___ rules

No Change/___ rules (FYR? __)

Amended/ 3 rules (FYR? no)

Rescinded/___ rules (FYR? __)

The Common Sense Initiative is established in R.C. 107.61 to eliminate excessive and duplicative rules and regulations that stand in the way of job creation. Under the Common Sense Initiative, agencies must balance the critical objectives of regulations that have an adverse impact on business with the costs of compliance by the regulated parties. Agencies should promote transparency, responsiveness, predictability, and flexibility while developing regulations that are fair and easy to follow. Agencies should prioritize compliance over punishment, and to that end, should utilize plain language in the development of regulations.

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Reason for Submission

1. R.C. 106.03 and 106.031 require agencies, when reviewing a rule, to determine whether the rule has an adverse impact on businesses as defined by R.C. 107.52. If the agency determines that it does, it must complete a business impact analysis and submit the rule for CSI review.

Which adverse impact(s) to businesses has the agency determined the rule(s) create?

The rule(s):

- a. ☐ Requires a license, permit, or any other prior authorization to engage in or operate a line of business.
- b. ☐ Imposes a criminal penalty, a civil penalty, or another sanction, or creates a cause of action for failure to comply with its terms.
- c. ☒ Requires specific expenditures or the report of information as a condition of compliance.
- d. ☐ Is likely to directly reduce the revenue or increase the expenses of the lines of business to which it will apply or applies.

Regulatory Intent

2. Please briefly describe the draft regulation in plain language.

Please include the key provisions of the regulation as well as any proposed amendments.

Chapter 4123-18 of the Ohio Administrative Code contains BWC rules providing for the vocational rehabilitation of injured workers in the Ohio workers' compensation system. The rules were first published as Industrial Commission (IC) rules in the early 1980's and were converted to BWC rules in the early 1990's when H.B. 222 transferred authority over vocational rehabilitation services from the IC to BWC.

The following rules are submitted for minor corrections:

1. OAC 4123-18-04 Living maintenance
 - Correct typographical error.
2. OAC 4123-18-21 Wage Loss Payments to injured workers who complete rehabilitation plans
 - Correct internal cross-reference.

Vocational rehabilitation fee schedule rule OAC 4123-18-09 establishes the benefits and related reimbursement rates available to providers to address the vocational rehabilitation services needs of injured workers. Below is a restatement of the proposed changes to the rule.

3. OAC 4123-18-09 (Appendix)
 - Benefit plan changes:
 - Maintain current benefit plan.
 - Reimbursement rate changes:
 - Maintain current hybrid reimbursement methodology.
 - Recommend 4.12% increase in base reimbursement rates.
 - Maintain alignment of the provider mileage with the state mileage rate of \$0.58.

3. Please list the Ohio statute(s) that authorize the agency, board or commission to adopt the rule(s) and the statute(s) that amplify that authority.

Authorize: R.C. 4121.12, 4121.121, 4121.30, 4121.31, 4123.05

Amplify: R.C. 4121.44, 4121.441, 4121.61, 4121.62, 4121.63, 4121.66, 4121.67, 4123.53, 4123.66

4. Does the regulation implement a federal requirement? Is the proposed regulation being adopted or amended to enable the state to obtain or maintain approval to administer and enforce a federal law or to participate in a federal program?

If yes, please briefly explain the source and substance of the federal requirement.

No

5. If the regulation implements a federal requirement, but includes provisions not specifically required by the federal government, please explain the rationale for

exceeding the federal requirement.

Not applicable

- 6. What is the public purpose for this regulation (i.e., why does the Agency feel that there needs to be any regulation in this area at all)?**

BWC is required to adopt changes to its fee schedules via the O.R.C. Chapter 119 rulemaking process. The purpose of rule OAC 4123-18-09 is to establish the fees to be paid by BWC to providers of vocational rehabilitation services for injured workers.

The fee schedule supports efficiency in provision of services that assists in the maintenance of employer rates.

- 7. How will the Agency measure the success of this regulation in terms of outputs and/or outcomes?**

BWC will measure success by continuing to demonstrate that our fee schedules and payment strategies will maintain stability in the environment and reimbursement methodologies; ensure injured worker access to quality services; promote efficiency in the provision of quality services; and maintain a competitive environment where providers can render safe effective service.

- 8. Are any of the proposed rules contained in this rule package being submitted pursuant to R.C. 101.352, 101.353, 106.032, 121.93, or 121.931?**

If yes, please specify the rule number(s), the specific R.C. section requiring this submission, and a detailed explanation.

No

Development of the Regulation

- 9. Please list the stakeholders included by the Agency in the development or initial review of the draft regulation.**

If applicable, please include the date and medium by which the stakeholders were initially contacted.

The proposed rule was published for stakeholder comment on Friday, March 28, 2025, with a comment period open through April 11, 2025, and notice was e-mailed to the following lists of stakeholders:

- BWC's Managed Care Organizations
- BWC's internal medical provider stakeholder list
- BWC's Healthcare Quality Assurance Advisory Committee
- Ohio Association for Justice
- Ohio International Association of Rehabilitation Providers (IARP)
- Employer Organizations
 - Council of Smaller Enterprises (COSE)
 - Ohio Manufacturer's Association (OMA)
 - National Federation of Independent Business (NFIB)
 - Ohio Chamber of Commerce
- BWC's Self-Insured Division's employer distribution list
- BWC's Employer Services Division's Third-Party Administrator (TPA) distribution list.
- Ohio Medical and Pharmacy Boards

10. What input was provided by the stakeholders, and how did that input affect the draft regulation being proposed by the Agency?

There were three stakeholder comments received. Two comments were supportive of the proposed changes. One asked for the proposed fee changes for several services but made no recommendations for changes after the information was supplied.

11. What scientific data was used to develop the rule or the measurable outcomes of the rule? How does this data support the regulation being proposed?

BWC uses selected consumer price cost data to create a market-basket-percentage-estimate to apply as appropriate to the base-fee methodology calculation. The data helps BWC staff determine what level of increase or decrease should be applied to the current year's service rates. During the fee schedule review, BWC claims data is modeled against the proposed changes to determine the impact to BWC and to determine if adjustments are needed to achieve our goals of maintaining stability in the environment, ensuring injured worker access to quality care, promoting efficiency in the provision of quality services, and maintaining a competitive provider network.

12. What alternative regulations (or specific provisions within the regulation) did the Agency consider, and why did it determine that these alternatives were not appropriate? If none, why didn't the Agency consider regulatory alternatives? *Alternative regulations may include performance-based regulations, which define the required outcome, but do not dictate the process the regulated stakeholders must use to*

comply.

None. BWC is required to develop and promulgate a statewide workers' compensation reimbursement methodology for providers of medical services to injured workers, including vocational rehabilitation services.

R.C 4121.441(A) provides that the BWC Administrator, with the advice and consent of the BWC Board of Directors, shall adopt rules for implementation of the HPP "to provide medical surgical, nursing, drug, hospital, and rehabilitation services and supplies" to injured workers.

Pursuant to the 10th District Court of Appeals decision in *Ohio Hosp Assn. V. Ohio Bur. Of Workers' Comp.*, Franklin App. No. 06AP-471, 2007-Ohio-1499, BWC is required to adopt changes to its methodology for payment of vocational rehabilitation services via the O.R.C. Chapter 119 rulemaking process.

13. What measures did the Agency take to ensure that this regulation does not duplicate an existing Ohio regulation?

These rules are specific to BWC and reimbursement for vocational rehabilitation services in that program. Since BWC is the only state agency that administers workers' compensation in Ohio, there is no duplication between these rules and other rules in the Ohio Administrative Code.

14. Please describe the Agency's plan for implementation of the regulation, including any measures to ensure that the regulation is applied consistently and predictably for the regulated community.

BWC has established a repeatable procedure by which all Ohio workers compensation provider fee schedules are implemented. These procedures include documentation of fee schedule changes, files and other necessary information and adequate notification to stakeholders, self-insuring employers, managed care organizations and our billing vendor to ensure the fee schedule can be implemented accurately and in a timely fashion. The fee schedule is made available via www.bwc.ohio.gov to all employers and third-party administrators for download for use in their system. BWC's system contains edits and reports to ensure consistent and accurate application of the rule.

Adverse Impact to Business

15. Provide a summary of the estimated cost of compliance with the rule(s). Specifically, please do the following:

a. Identify the scope of the impacted business community, and

The impacted business community consists of vocational rehabilitation services providers rendering services to injured workers, all employers who have injured workers utilizing vocational rehabilitation services, and self-insuring employers that also administer this rule.

b. Quantify and identify the nature of all adverse impact (e.g., fees, fines, employer time for compliance, etc.).

The adverse impact can be quantified in terms of dollars, hours to comply, or other factors; and may be estimated for the entire regulated population or for a representative business. Please include the source for your information/estimated impact.

Implementation of fee schedule changes is a necessary part of annual methodology updates for vocational rehabilitation service providers and self-insuring employers. The minimal adverse impact will be the cost of the vocational rehabilitation providers' time to incorporate relevant changes into their billing systems. The adverse impact to the self-insuring employers will be the employer's time and/or reimbursement business expense for programming and executing the fee schedule changes.

It is estimated that vocational rehabilitation service providers and self-insured employers would require less than 10 hours of programming time to comply with this rule. The annual implementation of updates is relatively routine for providers and self-insured employers.

The proposed rule also provides notice to providers of vocational rehabilitation services as to bill submission requirements to comply with when submitting invoices for vocational rehabilitation services to the Bureau.

16. Are there any proposed changes to the rules that will reduce a regulatory burden imposed on the business community? Please identify. (*Reductions in regulatory burden may include streamlining reporting processes, simplifying rules to improve readability, eliminating requirements, reducing compliance time or fees, or other related factors*).

No.

17. Why did the Agency determine that the regulatory intent justifies the adverse impact to the regulated business community?

The intent of this rule is to ensure Ohio's injured workers have access to quality vocational rehabilitation services. It is essential that appropriate and timely review of the fee schedule with relevant modifications are implemented to create a competitive reimbursement level for these services, maintaining injured worker access to care.

Regulatory Flexibility

18. Does the regulation provide any exemptions or alternative means of compliance for small businesses? Please explain.

No. This fee schedule is applied equitably across all vocational rehabilitation service providers. However, providers may, when appropriate per BWC rules, negotiate reimbursement with BWC's managed care organizations and self-insuring employers.

19. How will the agency apply Ohio Revised Code section 119.14 (waiver of fines and penalties for paperwork violations and first-time offenders) into implementation of the regulation?

There are no fines or penalties for paperwork violations under these rules.

20. What resources are available to assist small businesses with compliance of the regulation?

BWC posts information regarding the vocational rehabilitation provider fee schedule on the BWC website at www.bwc.ohio.gov. The Provider Billing and Reimbursement Manual also serves as a source of fee schedule protocols, coding, billing, and reimbursement information. Providers rendering services contained with this fee schedule can also contact Managed Care Organization staff, BWC Provider Relations Business Area, Medical Services Fee Schedule Policy Unit staff or Vocational Rehabilitation Policy Unit staff for personal assistance with billing issues.