



## Common Sense Initiative

**Mike DeWine**, Governor  
**Jon Husted**, Lt. Governor

**Carrie Kuruc**, Director

### MEMORANDUM

**TO:** Aniko Nagy, Bureau of Workers Compensation

**FROM:** Ethan Wittkorn Regulatory Policy Advocate

**DATE:** April 16, 2019

**RE:** **CSI Review – Self-Insuring Employer Rules (OAC Chapter 4123-19)**

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On behalf of Lt. Governor Jon Husted, and pursuant to the authority granted to the Common Sense Initiative (CSI) Office under Ohio Revised Code (ORC) section 107.54, the CSI Office has reviewed the abovementioned administrative rule package and associated Business Impact Analysis (BIA). This memo represents the CSI Office's comments to the Agency as provided for in ORC 107.54.

#### Analysis

This Ohio Bureau of Workers Compensation (BWC) rule package consists of 9 amended rules. It was submitted to the CSI Office on March 5, 2019, and the public comment period was open through March 27, 2019.

This package contains the rules governing self-insurance in the Ohio's workers' compensation system. Included are the process of applying to self-insure, the procedure for renewal or revocation of self-insuring status, and the assessment for the self-insuring employers guaranty fund. Changes to these rules include updated definitions, updates to language covering benefits and compensation, insuring risk, complaints under ORC 4123.35, self-insuring employer's evaluation board, self-insured review panel, assessment for self-insuring employers' guaranty fund, and self-insured construction projects.

During the early stakeholder outreach period BWC reached out to the Ohio Manufacturers Association, BWC's Self-Insured Division's employer distribution list, and Ohio Self-Insurance Association workgroup. BWC received no stakeholder feedback concerning the draft rules. During

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the public comment period from March 5 to March 27, no comment was received.

The impacted community of the proposed rules are employers that desire to self-insure and employers that are currently self-insured. Employers that become self-insured are responsible for paying assessments to the self-insuring employers' guaranty fund and to pay claims dollar-for-dollar. An employer wishing to become self-insured must meet statutory requirements outlined in OAC 4123-19-03. The proposed rules clarify requirements for self-insuring employers who utilize excess insurance, permitted in ORC 4123.82(B). Requirements include providing a copy of the excess insurance policy and/or declaration page to the BWC when filing for annual renewal of self-insurance and naming the BWC as a beneficiary in the excess insurance policy in the event the self-insuring employer defaults on its obligations. These rules are authorized by ORC 4123.35, 4123.351, and 4123.352. BWC maintains in the BIA that any adverse impact is mitigated by the elective nature of the self-insurance program, and the elective nature of the excess insurance of self-insuring employers.

### **Recommendations**

For the reasons described above, the CSI Office has no recommendations on this rule package.

### **Conclusion**

Based on its review of the proposed rule package, the CSI Office recommends the BWC should proceed in filing the proposed rules with the Joint Committee on Agency Rule Review.