



Common Sense Initiative

Mike DeWine, Governor
Jon Husted, Lt. Governor

Carrie Kuruc, Director

MEMORANDUM

TO: Aniko Nagy, Ohio Bureau of Workers' Compensation

FROM: Emily Groseclose, Senior Policy and Business Advocate

DATE: November 26, 2019

RE: **CSI Review – Rehabilitation of Injured and Disabled Workers (OAC 4123-18-01, 4123-18-02, 4123-18-05, 4123-18-08, 4123-18-11, 4123-18-16 and 4123-18-21)**

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 Department as provided for in ORC 107.54.

Analysis

This rule package contains seven amended rules submitted by the Ohio Bureau of Workers' Compensation (Bureau) as part of the statutorily required five-year review process. The rule package was submitted to the CSI Office on October 24, 2019, and the public comment period was held open through November 8, 2019. No comments were received during this time. Unless otherwise noted below, this recommendation reflects the version of the proposed rules filed with the CSI office on October 24, 2019.

The rules provide for the rehabilitation of injured and disabled workers, including responsibilities of the Bureau, Managed Care Organizations (MCO), vocational rehabilitation service providers, employers, and injured or disabled workers. Amendments to the rules include organizational and stylist updates for clarity, modifications necessitated as the result of statutory changes, a revision to ensure that vocational rehabilitation case management services provided as part of an approved plan are paid from the surplus fund, and changes to the reimbursable relocation expense amount from \$2000 to \$3000 and removal of the requirement that the injured worker must sell their last

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place of residence to be eligible for reimbursement.

As part of early stakeholder outreach, the Bureau posted the proposed rules on its website and an email notification was sent out to members of the it's Healthcare Quality Assurance Advisory Committee, the Ohio Association for Justice, the Council of Smaller Enterprises, the Ohio Manufacturer's Association, the National Federation of Independent Business, the Ohio Chamber of Commerce, other professional organizations, and various MCOs, medical providers, self-insured employers, and third-party administrators. Feedback was received from a vocational rehabilitation coordinator who suggested that each MCO vocational rehabilitation program coordinator or MCO staff with equivalent or greater credentials review, staff, and determine authorization or denial of all plans submitted by a case manager or intern. In response, the Bureau noted that the rule prescribes the task responsibilities of each entity related to an individualized written vocational rehabilitation plan, and that the role of the coordinator is defined within the MCO contract and MCO Policy Reference Guide. The Bureau stated that it is convening a workgroup to discuss those roles and will make appropriate changes to the contract and guide as necessary. No comments were received during the CSI public comment period.

The rules impact vocational rehabilitation services providers, employers who have injured workers utilizing such services, and MCOs. The Bureau stated that adverse impacts related to the rule updates may include time needed to review the changes and make any necessary modifications, which it noted should be minimal. Additional adverse impacts created by the continuing rule language include the creation and reporting of certain information, such as vocational rehabilitation assessment plans and expenditures. The Bureau stated that the rules are necessary to meet legislative requirements, remove duplications and redundancies, and clarify responsibilities of all parties to ensure vocational services access, quality and cost effectiveness, to lead to the successful and safe return to work for injured workers.

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 that the Ohio Bureau of Workers' Compensation should proceed in filing the proposed rules with the Joint Committee on Agency Rule Review.