

**MEMORANDUM**

TO: Aniko Nagy, Ohio Bureau of Workers' Compensation

FROM: Jacob Ritzenthaler, Regulatory Policy Advocate

DATE: October 4, 2018

RE: **CSI Review – Professional Employer Organizations (OAC 4123-17-15, 4123-17-15.1, 4123-17-15.2, 4123-17-15.4, 4123-17-15.5, 4123-17-15.6, and 4123-17-15.7)**

On behalf of Lt. Governor Mary Taylor, 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 rule package consists of six amended rules and one no-change rule proposed by the Ohio Bureau of Workers' Compensation (BWC). The rule package was submitted to the CSI Office on July 10, 2018 and the public comment period was held open through August 1, 2018. No comments were received during the CSI public comment period.

The rules in this package address professional employer organizations (PEO), which is an organization that enters into an agreement to co-employ all or part of a client employer's workforce. Ohio Administrative Code (OAC) 4123-17-15 sets forth definitions and obligations and is being amended to include a new definition and language that allows PEOs to report wages under a client's tax identification number. OAC 4123-17-15.1 establishes the process for PEO agreements and is being amended to include requirements for effective dates of agreements and a \$50 processing fee for late notifications. OAC 4123-17-15.2 and 4123-17-15.4 detail registration, reporting, and financial requirements and are amended to update references. OAC 4123-17-15.5 establishes the guidelines for self-insured PEOs and includes an amendment that increases the

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lease termination notice timeframe from 14 days to 30 days. OAC 4123-17-15.7 sets forth guidelines for the denial or revocation of PEO registration and includes amendments that update the ability of BWC to revoke the registration of a PEO that is owned or controlled by an offending PEO. OAC 4123-17-15.6 establishes client employer information requirements and is being proposed without changes.

During early stakeholder outreach, BWC sent the rules to stakeholders, including professional organizations and all PEOs. During this time, one stakeholder suggested including language in the rules that would allow PEOs to report wages using the Federal Employer Identification Number of either the PEO or a client. BWC included the changes and sent an updated version of the rules to stakeholders. Five stakeholders submitted comments that opposed the changes made to the wage reporting language. This prompted BWC to remove the amendments and replace them with language that provides conditions for optional reporting. No comments were received during the CSI public comment period.

The business community impacted by the rules includes all registered PEOs. The adverse impact created by the rules includes fees for initial registration and annual renewal. Initial registration fees cost \$1,000 for PEOs, \$500 for assurance organizations, and \$100 for limited registration PEOs. Annual renewal fees cost \$250 for PEOs and \$500 for assurance organizations. The amendments to the rules include a \$50 processing fee for PEOs that fail to notify BWC within 30 days of changing or terminating a PEO agreement, declaring bankruptcy, or ceasing operations. These rules are necessary to ensure compliance with Ohio statutes and to align Ohio with PEO regulation in other states. After reviewing the proposed rules and the BIA, the CSI Office has determined that the rules satisfactorily meet the standards espoused by the CSI Office, and the purpose of the rule package is justified.

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