



## Common Sense Initiative

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

**Sean McCullough**, Director

### MEMORANDUM

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

**FROM:** Ethan Wittkorn, Business Advocate

**DATE:** October 29, 2021

**RE:** CSI Review – Third batch of Chapter 4123-6 rules (OAC 4123-6-03.2, 4123-6-06.2, 4123-6-21.2, 4123-6-21.4, 4123-6-21.5, 4123-6-22, 4123-6-23, 4123-6-25, 4123-6-26, 4123-6-27, 4123-6-29, 4123-6-30, 4123-6-31, 4123-6-32, 4123-6-33, 4123-6-37, 4123-6-38, 4123-6-38.1, 4123-6-38.2, 4123-6-39, 4123-6-40, 4123-6-41, 4123-6-42, 4123-6-43, 4123-6-44, 4123-6-45, 4123-6-45.1, and 4123-6-46)

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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 Bureau as provided for in ORC 107.54.

#### Analysis

This Ohio Bureau of Workers' Compensation (BWC) rule package consists of five no change, two new, three rescinded, and 21 amended rules, submitted as part of a statutory five-year review process. The rules were submitted to the CSI Office on July 9, 2021, and the public comment period was open through July 30, 2021. Unless otherwise noted below, this recommendation reflects the version of the proposed rules filed with the CSI Office on July 9, 2021.

The proposed rules cover requirements of the Health Partnership Program, which is BWC's program for managing worker's compensation health care for injured workers employed by state-fund employers. Amendments have been proposed to provide clarity, allow MCOs to subcontract medical management services as part of a continuity plan, update terms and references, remove language requiring approval and review of various reimbursements, revise the function of the pharmacy and therapeutics committee, revise the records maintenance and processes of the health care quality

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assurance advisory committee, make payment adjustments, and correct citations.

During the early stakeholder outreach period, the BWC shared the proposed rules with stakeholders including managed care organizations, medical providers, the Ohio Association for Justice, the National Federation of Independent Business, the Ohio Chamber of Commerce, the Council of Smaller Enterprises, self-insured employers, and third-party administrators. Comments received during this time range from support of the proposed rules, concerns over what is included in physical medicine and the categorization of professional providers, concerns prompting clarification of requirements and role of a physician of record, and guidelines for lumbar fusion surgery. The BWC responded to concerns by clarifying why providers are recognized in specific sections, and the ability of medical professionals as recognized by Ohio law.

The proposed rules may impact health partnership program service providers, self-insured employers, and managed care organizations. Potential impacts include any costs related to the adoption and application of updates to applicable systems. The BWC estimates the time necessary to adopt these changes at around 15 work hours for each impacted party. The BWC believes that the proposed rules help to provide clear program and service parameters, and ensure access to cost effective services.

### **Recommendations**

Based on the information above, the CSI Office has no recommendations on this rule package.

### **Conclusion**

The CSI Office concludes that BWC should proceed in filing the proposed rule with the Joint Committee on Agency Rule Review.