



Common Sense Initiative

Mike DeWine, Governor
Jon Husted, Lt. Governor

Sean McCullough, Director

MEMORANDUM

TO: Aniko Nagy, Ohio Bureau of Workers' Compensation

FROM: Emily Groseclose, Deputy Director

DATE: October 5, 2021

RE: **CSI Review – Chapter 4123-19 Self-Insuring Employer Rules (OAC 4123-19-03, 4123-19-06, 4123-19-09, and 4123-19-16)**

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 rule package contains four amended rules submitted by the Ohio Bureau of Workers' Compensation (Bureau). The package was submitted on August 9, 2021, and the public comment period was held open through August 27, 2021. No comments were received during that time. Unless otherwise noted below, this recommendation reflects the version of the proposed rules filed with the CSI office on August 9, 2021.

These rules regulate self-insuring employers, including the financial records, application forms, and self-insured employers' guaranty fund assessments that must be provided to the Bureau to be granted self-insuring status, information that must be provided in annual and other reports to the Bureau, and the minimal level of performance required to maintain the self-insuring privilege. The rules also outline requirements for self-insuring employers to pay workers' compensation claims, procedures for revocation of self-insuring status, processing of complaints filed against self-insuring employers, and self-insured construction projects.

Amendments include removing the requirements that an employer switching from the state fund to

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self-insured sign, in handwriting, a letter to the Bureau acknowledging the employer's liability amount to the state fund, if any, and for a public school official to certify cost savings to the Bureau of a self-insured construction project in a written, signed document. These changes were made as a result of research conducted for the CSI regulatory reform project using an artificial intelligence software tool.

During early stakeholder outreach, the Bureau shared the proposed rules with the Ohio Self-Insurance Association, the Ohio Manufacturers' Association, and others. No comments were received during that time or the CSI public comment period.

The rules impact all self-insuring employers and others that desire to become self-insured. The Bureau indicated that the adverse impacts created by the rules include the requirement to meet certain criteria and obtain prior authorization to be granted self-insuring status, the assessment paid into the self-insuring employers' guaranty fund, and the payment of claims. The Bureau stated that the rules generally follow statutory mandates and are necessary to inform Ohio employers of the Bureau's policies and procedures to implement self-insurance.

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