



Common Sense Initiative

Mike DeWine, Governor
Jon Husted, Lt. Governor

Sean McCullough, Director

MEMORANDUM

TO: Aniko Nagy, Ohio Bureau of Workers' Compensation

FROM: Joseph Baker, Business Advocate

DATE: February 1, 2022

RE: **CSI Review – Preparation and filing of applications for compensation and/or benefits and awards (OAC 4123-3-08 and 4123-3-10)**

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 two amended rules. The rules were submitted to the CSI Office on December 1, 2021, and the public comment period was open through December 21, 2021. Unless otherwise noted below, this recommendation reflects the version of the proposed rules filed with the CSI Office on December 1, 2021.

Ohio Administrative Code (OAC) 4123-3-08 outlines standards regarding the completion of applications for payment of BWC injured worker claims. These standards include requirements that employers assist injured or disabled employees in preparing and submitting reports for compensation, that injured or disabled minor workers submit their own claims, that employers accept or reject a claim within a statutory timeframe, that employers submit information to the BWC regarding its decision to accept or reject a claim, and others. The rule is amended to revise the timeframe for filing a claim for occupational diseases to within one year of the beginning of the disability or within six months of diagnosis by a physician. The BWC states in the BIA that the amendment aligns the rule with statutory changes made recently in Am. Sub. H.B. 75 (134th General Assembly).

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OAC 4123-3-10 specifies standards regarding the payment of compensation awards to claimants who sustained an injury or contracted an occupational disease in the course of employment. The rule specifies that payments must be made within statutory timeframes, directly to the claimant or the claimant's legally appointed guardian by electronic funds transfer (except in certain cases), and prescribes special procedures for instances where the claimant is a child support obligor, among others. The rule is amended to remove language prohibiting attorneys or attorney employees to cash or endorse a check on behalf of a claimant.

During the early stakeholder outreach period, the BWC shared the proposed rules with stakeholders that include 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. No comments were received in response to the request for stakeholder input or during the CSI public comment period.

The business community affected by the rules includes injured workers and their legal representation, employers and employer representatives, healthcare providers, and managed care organizations. The adverse impact created by the rules involves the administrative costs and time necessary to comply with the reporting procedures and related requirements that accompany BWC claim adjudication and payment processes. The BWC states in the BIA that the adverse impact to business is necessary to comply with statute and that the rules serve to inform workers and employers on the procedures for processing and payment of benefits.

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.