ACTION: Final

DATE: 11/21/2013 8:28 AM

MEMORANDUM

TO: Tom Sico, Bureau of Workers' Compensation

FROM: Paula Steele, Regulatory Policy Advocate

DATE: September 16, 2013

RE: **CSI Review – Outpatient Medication Formulary (OAC 4123-6-21.3, Appendix A)**

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

The draft rule outlines the administrative process for the adoption of and revisions to the Bureau of Workers' Compensation's medication formulary listed in Appendix A of the draft rule. Appendix A lists drugs permitted for reimbursement when prescribed to treat injuries allowed in a claim. Prescribers are limited to the medications and any restrictions described in the formulary. The Outpatient Medication Formulary is reviewed and updated on a frequent basis. The CSI Office completed reviews of previous versions in May of 2012 and January 2013, and did not issue any recommendations for the proposed rule packages.

This rule package was submitted to the CSI Office on August 14, 2013, and the comment period closed on September 13, 2013. During the review process, it was discovered that the e-notification may not have been sent out for public comment due to technological problems. Therefore, notice was sent on September 11, 2013 and a new comment period was open until September 16, 2013. No comments were received during the public comment period.

Rule 4123-6-21.3 is being proposed with no changes. Appendix A includes proposed changes that limit the reimbursement of certain medications, allow the reimbursement of other medications, remove sleep aids from the formulary, limit the reimbursable dosage of certain anti-anxiety drugs, add a drug to the formulary, and limit the number of doses of all butalbital-containing formulary products. Specific details of the changes are provided in the BIA.

The initial rule and appendix were created in 2011 by a committee of health care professionals who worked with the Bureau and developed the formulary and appendix through research and review of medical literature, utilization rates, and industry best practices. For this update, the Bureau emailed the proposed changes to a comprehensive list of stakeholders who provided suggestions and requested additional information from the Bureau. According to the BIA, most stakeholder feedback was in support of the changes. There were concerns that the Bureau should do more to prevent physicians from prescribing highly-addictive narcotics to injured workers. The Bureau acknowledged this concern and is preparing a rule that will allow for the monitoring and limiting of prescribing highly-addictive drugs to injured workers. Other concerns and the Bureau's response are detailed in the BIA.

After reviewing the proposed rule, appendix, and the BIA, the CSI Office has determined that the rule satisfactorily meets the standards espoused by the CSI Office, and the purpose of the rule justifies the adverse impact identified in the BIA.

Recommendations

For the reasons explained above this office does not have any recommendations regarding this rule.

Conclusion

Based on the above comments, the CSI Office concludes that the Bureau should proceed with the formal filing of this rule package with the Joint Committee on Agency Rule Review.

cc: Stephen Buehrer, Administrator/CEO, Ohio Bureau of Workers' Compensation
Mark Hamlin, Lt. Governor's Office