ACTION: Final

DATE: 03/31/2014 9:50 AM

MEMORANDUM

TO: Tom Sico, Bureau of Workers' Compensation

FROM: Paula Steele, Regulatory Policy Advocate

DATE: December 13, 2013

RE: **CSI Review – Dose Tapering Schedule** (OAC 4123-6-21.1, 4123-6-21.5 and Appendix)

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 Ohio Bureau of Workers' Compensation (BWC) rule package consists of one amended and one new proposed rule and appendix. The rule package was filed with the CSI Office on October 25, 2013, and the comment period for the rule closed on November 13, 2013. No public comments were submitted to CSI during the comment period.

The draft rules address standard dose tapering or weaning schedules for outpatient medications. Rather than abruptly removing an injured worker patient from a drug therapy that creates physical dependence, the weaning schedules will apply to patients whose treatment for certain classes of drugs is no longer reimbursable and therefore denied. The Bureau identified inconsistencies in how injured workers were weaned from certain drugs depending upon whether the employer was self-insured or utilized the state insurance fund. These inconsistencies were the impetus for the rule changes. The dose tapering schedule articulated in the Appendix to Rule 4123-6-21.5 is intended to ensure that all injured worker patients treated with certain drugs will be safely weaned

off the medication, and the dose tapering schedule will be consistently applied to self-insured and state fund employers.

According to the BIA, the Bureau reached out to a comprehensive group of stakeholders. Most of the feedback was in support of the dose tapering schedule requirements. However, one commenter suggested some modifications to the tapering schedule. While the Bureau agreed there was merit to the suggestions, the Bureau's position is that ultimately, the treatment must be addressed by the prescriber.

Self-insured employers are adversely impacted by this change because they will be required to pay for certain drugs during the weaning period. The Bureau estimates a self-insured employer could expect an additional $200 per injured worker to account for the weaning period, and it cites the need for consistent treatment of injured workers and patient safety as the justifications for the impacts. After reviewing the proposed rules and BIA, the CSI Office has determined that the rule package satisfactorily meets the standards espoused by the CSI Office, and the purpose of the rules justifies the adverse impact identified in the BIA.

Recommendations

For the reasons described above, the CSI Office has no recommendations regarding this rule package.

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