ACTION: Final

DATE: 05/23/2017 8:02 AM

MEMORANDUM

TO: Aniko Nagy, Ohio Bureau of Workers' Compensation

FROM: Tess Eckstein, Regulatory Policy Advocate

DATE: March 10, 2017

RE: **CSI Review – Pharmacy Rules (OAC 4123-6-21, 4123-6-21.1, 4123-6-21.2)**

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 rule package consists of three amended rules being proposed by the Ohio Bureau of Workers' Compensation (BWC). The rule package was submitted to the CSI Office on February 14, 2017, and the comment period remained open until March 8, 2017. A revised BIA was submitted on March 9, 2017.

Rules 4123-6-21 and 4123-6-21.1 serve to define the context, criteria, limitations, and processes by which outpatient medications are covered by BWC and self-insured employers. The rules also define types of providers who are eligible to write covered prescriptions, as well as requirements for pharmacies that process prescriptions. Rule 4123-6-21.2 defines the membership composition and responsibilities of the Pharmacy and Therapeutics (P&T) Committee, which was created to advise the Administrator and the Chief Medical Officer with regard to issues involving medication therapy for injured workers. Proposed amendments to the rules remove language that refers to a proprietary drug classification system that is no longer being used, remove language that restricts when dispensing fees are paid to pharmacists, and add the Industrial Commission Medical Director as a member of the P&T Committee.

The rules impact pharmacy providers and self-insuring employers. However, the proposed amendments do not directly impact the regulated community; rather, they are directed at internal

administrative BWC operations. Although the rules themselves have potential adverse impacts associated with them, such as pharmacy providers being required to submit bills at the point of service, there are no adverse impacts created as a direct result of the proposed amendments. Furthermore, BWC indicates in the BIA that the proposed revisions are justified because BWC is statutorily obligated to apply sound fiscal principles in overseeing expenditures from the state insurance fund; BWC must ensure that rule language and its application reflect current market standards; removal of restrictive language on payment of dispensing fees eliminates possible unnecessary reductions in pharmacy reimbursement; and the addition of the Industrial Commission Medical Director to the BWC P&T Committee enhances communication between the two agencies. Finally, these rules help ensure safe and effective treatment for Ohio's injured workers.

Between January and February 2017, BWC sought comment on each of the drafted rules from multiple stakeholder groups, including but not limited to managed care organizations, BWC's Healthcare Quality Assurance Advisory Committee, employer organizations, the Ohio Medical Board and Ohio Board of Pharmacy, and those on a variety of BWC distribution lists. As a result of these distributions, BWC received only one comment, which expressed support for the proposed revisions. In addition, no comments were submitted during the CSI public comment period. Therefore, the CSI Office has determined the purpose of the rules to be justified.

Recommendations

For the reasons discussed above, the CSI Office does not have any recommendations for this rule package.

Conclusion

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

cc: Mark Hamlin, Lt. Governor's Office