ACTION: Final

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Ohio | Common Sense Initiative

Mike DeWine, Governor
Jon Husted, Lt. Governor

Carrie Kuruc, Director

MEMORANDUM

TO: Aniko Nagy, Ohio Bureau of Workers' Compensation

FROM: Joseph Baker, Regulatory Policy Advocate

DATE: April 23, 2021

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

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 consists of one amended rule proposed by the Ohio Bureau of Workers' Compensation (Bureau). This rule package was submitted to the CSI Office on March 10, 2021, and the public comment period was held open through March 31, 2021. Unless otherwise noted below, this recommendation reflects the version of the proposed rule filed with the CSI Office on March 10, 2021.

OAC 4123-6-21.3 provides the outpatient medication formulary used by the Bureau, which outlines medications that may be reimbursed when treating certain conditions. To be reimbursable, the medications must be connected to an approved claim and dispensed to an injured worker by a registered pharmacist from an enrolled pharmacy provider.

The formulary is developed by the administrator of the Bureau in coordination with its Pharmacy and Therapeutics Committee. The rule requires the administrator to consider medical literature, best practices and the recommendations of the committee when developing the formulary, requires the Bureau to provide an expedited review process for certain medications, and allows the Bureau to reimburse additional drugs not included in the formulary in certain cases of medical necessity.

Changes to the formulary include the removal of approximately 100 drugs that have been discontinued from manufacturing, according to the BIA. Additionally, the revised formulary will add 16 new drugs, and modify coverage for five more. The modifications include limiting reimbursement for non-barbiturate hypnotics to a thirty-day lifetime supply unless certain exceptions apply, removing a coverage limitation for Ondansetron (an anti-nausea drug), specifying new limitations for ulcer proton pump inhibitors, exclusively permitting reimbursement for topical steroids when prescribed for certain dermatological conditions, and modifying allowable conditions for Buprenorphine-Naloxone to be used for opioid use disorders or to discontinue the use of medications.

During early stakeholder outreach, the Bureau sent the proposed rules to its managed care organizations, Medical Services Division provider stakeholders, and Healthcare Quality Assurance Advisory Committee. The Bureau also shared the rules with the Ohio Association for Justice, the Council of Smaller Enterprises, the Ohio Manufacturers' Association, the Ohio Chamber of Commerce, the self-insured employers, third-party administrators, the State of Ohio Medical Board, and the State of Ohio Board of Pharmacy. The Bureau did not receive any early stakeholder comments and no comments were received during the CSI public comment period.

The business community impacted by the rules includes prescribers and pharmacy providers that prescribe and dispense medications to injured workers. The adverse impact to business includes the administrative effort necessary to comply with the formulary, submit reimbursement requests and report related information to the Bureau. The Bureau states in the BIA that the adverse impact to business is necessary to ensure the overall efficiency and effectiveness of drug utilization.

Recommendations

Based on the information above, the CSI Office has no recommendations on this rule package.

Conclusion

The CSI Office concludes that the Bureau of Workers' Compensation should proceed in filing the proposed rules with the Joint Committee on Agency Rule Review.