ACTION: Revised

DATE: 11/08/2022 2:16 PM

Ohio | Common Sense Initiative

Mike DeWine, Governor
Jon Husted, Lt. Governor

Joseph Baker, Director

MEMORANDUM

TO: Aniko Nagy, Ohio Bureau of Workers' Compensation

FROM: Joseph Baker, Business Advocate

DATE: October 28, 2022

RE: **CSI Review – Outpatient Medication Formulary and First Fill of Outpatient Medications (OAC 4123-6-21.3 and 4123-6-21.6)**

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 rule was submitted to the CSI Office on September 20, 2022, and the public comment period was open through October 11, 2022. Unless otherwise noted below, this recommendation reflects the version of the proposed rules filed with the CSI Office on September 20, 2022.

Ohio Administrative Code (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 rule is amended to add twenty-four medications to the formulary and to remove twenty-six medications and adopt coverage changes for various drugs and medications.

OAC 4123-6-21.6 specifies a list of medications for which the BWC will reimburse immediately following an application for compensation or benefits and prior to the administrator providing an initial determination. The rule limits payment to the initial filling of the prescription, prohibits

payment for refills, and caps authorization at one drug per therapeutic class. The rule is amended to add twenty-nine medications to the formulary and remove six medications.

During the early stakeholder outreach period, the BWC shared the proposed rules with managed care organizations, medical associations and provider groups, the Ohio Association for Justice, Council of Smaller Enterprises, Ohio Manufacturers' Association, National Federation of Independence Business, Ohio Chamber of Commerce, and other entities registered to receive notice on BWC stakeholder comment lists. No comments were received in response to the request for early stakeholder feedback or during the CSI public comment period.

The business community impacted by the rules includes pharmacies that are enrolled with the BWC to dispense reimbursable medications. The adverse impacts to business created by the rule include the costs and time associated with reviewing the formulary to evaluate coverage, submit reimbursement requests to the Bureau, and report related information. The BWC states that the adverse impact to business is justified to ensure the efficiency and effectiveness of drug utilization and notes that it does not expect any change in costs for the affected business community based on the amendments made in the rules.

Recommendations

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

Conclusion

The CSI Office concludes that the BWC should proceed in filing the proposed rules with the Joint Committee on Agency Rule Review.