ACTION: Revised

DATE: 05/16/2023 11:05 AM

Ohio | Common Sense Initiative

Mike DeWine, Governor
Jon Husted, Lt. Governor

Joseph Baker, Director

MEMORANDUM

TO: Aniko Nagy, Ohio Bureau of Workers' Compensation

FROM: Jacob Ritzenthaler, Business Advocate

DATE: May 12, 2023

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 (BWC). This rule package was submitted to the CSI Office on March 28, 2023, and the public comment period was held open through April 18, 2023. Unless otherwise noted below, this recommendation reflects the version of the proposed rule filed with the CSI Office on March 28, 2023.

Ohio Administrative Code 4123-6-21.3 establishes the outpatient medication formulary, which is included as an appendix to the rule that lists the medications approved for reimbursement by BWC for the treatment of a work-related injury or disease. The rule includes specific restrictions for the reimbursement, prescribing, and dispensing of certain drugs and allows for the reimbursement of drugs or dosages not currently approved in the formulary in medically necessary circumstances. The formulary is amended to introduce and remove medications, as well as to update the coverage of additional medications, including prior authorization requirements and treatment of additional conditions.

During early stakeholder outreach, BWC sent the proposed rule and appendix to industry

stakeholders, including managed care organizations, medical providers, employer organizations, the Ohio Association for Justice, and state agencies. During that time, one comment was received in support of the proposed changes. No comments were received during the CSI public comment period.

The business community impacted by the proposed rule includes all providers certified by BWC to prescribe and dispense medications to injured workers. The adverse impact created by the rule is primarily the time spent by providers complying with the prescribing requirements found in the formulary. BWC states that the adverse impact created by the rule is necessary to provide prescribers with a clear and concise list of approved medications and restrictions.

Recommendations

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

Conclusion

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