Common Sense Initiative

Mike DeWine, *Governor*
Jon Husted, *Lt. Governor*
Joseph Baker, *Director*

MEMORANDUM

TO: Eva Dixon, Ohio Bureau of Workers' Compensation

FROM: Michael Bender, Business Advocate

DATE: May 10, 2024

RE: **CSI Review – Pharmacy and Therapeutics Committee, Outpatient Medication Formulary, and First Fill of Outpatient Medications (OAC 4123-6-21.2, 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 rule package consists of three amended rules proposed by the Ohio Bureau of Workers' Compensation (BWC). This rule package was submitted to the CSI Office on April 17, 2024, and the public comment period was held open through May 3, 2024. Unless otherwise noted below, this recommendation reflects the version of the proposed rules filed with the CSI Office on April 17, 2024.

Ohio Administrative Code (OAC) 4123-6-21.2 establishes the Pharmacy and Therapeutics Committee (PTC), which advises BWC on issues involving medication therapy for injured workers. The rule is amended to update language and grammar, add clarifying language, allow PTC members to resign or be removed by the Administrator of BWC at any time, authorize the Director of BWC's Pharmacy Program (Director) to designate an alternate to serve in the Director's absence, and decrease the number of required PTC meetings from three to two per year. OAC 4123-6-21.3 adopts an outpatient formulary which constitutes the complete list of medications that are approved for

reimbursement by BWC for the treatment of a work-related injury or disease in an allowed claim when dispensed to an injured worker by a registered pharmacist from an enrolled outpatient pharmacy provider. An appendix to the rule is provided and contains the formulary. The appendix is amended to add and remove medications and make changes in coverage to other medications. OAC 4123-6-21.6 adopts a first fill formulary which constitutes the complete list of medications and the maximum quantity of such medications that are approved for reimbursement by BWC for first fill prior to the issuance of an initial determination order. The rule is amended to update the rule title. An appendix to the rule is provided and contains the formulary. The appendix is amended to add and remove medications.

During early stakeholder outreach, BWC emailed the proposed rules to stakeholders on February 27, 2024, to solicit comments through March 12, 2024. Stakeholders who were contacted included BWC's managed care organizations, BWC's Health Care Quality Assurance Advisory Committee, BWC's internal medical provider stakeholder list, BWC's Self-Insured Division's employer distribution list, BWC's Employer Services Division's Third-Party Administrator distribution list, the State Medical Board of Ohio, the State of Ohio Board of Pharmacy, the Ohio Association for Justice, the Council of Smaller Enterprises, the Ohio Manufacturers' Association, the National Federation of Independent Business, and the Ohio Chamber of Commerce. BWC received one comment from the Medical Director of the Ohio Industrial Commission. In response to the comment, BWC added clarification to the rules regarding the proposed restriction for several antipsychotic medications. No comments were received during the CSI public comment period, although BWC revised the rules to make technical and grammatical corrections.

The business community impacted by the rules includes members of the prescriber and pharmacy business communities, particularly BWC-enrolled or certified providers who prescribe and dispense medication to injured workers. The adverse impacts created by the rules include restrictions on which medications may be prescribed to injured workers and limits on the use of approved medications. BWC states that the adverse impacts to business are justified to implement statutory requirements, comply with federal drug regulations, and improve the efficiency of treatment for injured workers.

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 rules with the Joint Committee on Agency Rule Review.