Common Sense Initiative

Mike DeWine, *Governor*
Jim Tressel, *Lt. Governor*

Joseph Baker, *Director*

MEMORANDUM

TO: Eva Dixon, Ohio Bureau of Workers' Compensation

FROM: Michael Bender, Business Advocate

DATE: July 9, 2025

RE: **CSI Review – Chapter 4123-6 FYRR Amended Rules (OAC 4123-6-01.2, 4123-6-02, 4123-6-02.2, 4123-6-02.3, 4123-6-02.4, 4123-6-02.5, 4123-6-02.6, 4123-6-02.7, 4123-6-02.21, 4123-6-02.51, 4123-6-03.7, 4123-6-03.9, 4123-6-04.3, 4123-6-07, 4123-6-10, 4123-6-20, 4123-6-20.1, 4123-6-21, 4123-6-21.1, and 4123-6-21.8)**

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 twenty amended rules proposed by the Ohio Bureau of Workers' Compensation (BWC) as part of the statutory five-year review process. This rule package was submitted to the CSI Office on April 30, 2025, and the public comment period was held open through May 14, 2025. Unless otherwise noted below, this recommendation reflects the version of the proposed rules filed with the CSI Office on April 30, 2025.

Ohio Administrative Code (OAC) Chapter 4123-6 implements the Health Partnership Program (HPP), which manages workers' compensation health care for injured workers employed by State Insurance Fund (SIF) employers. OAC 4123-6-01.2 authorizes the Administrator of BWC (Administrator) to grant provisional treatment reimbursement approval for the purposes of a pilot program. The rule is amended to change the period of time that the pilot program may be

implemented from an end date of December 31, 2022, to a period of no more than three years. OAC 4123-6-02 authorizes BWC to certify providers who wish to participate in the HPP. The rule is amended to change the period of time that BWC may recertify providers from between one to three years to periods as determined by BWC. OAC 4123-6-02.2 specifies the minimum criteria and credentials for providers who participate in the HPP. The rule is amended to remove the requirement for certain services and facilities to be approved by the federal Centers for Medicare & Medicaid Services, revise Medicare approval requirements for certain services and facilities, and remove hospital (provider) based urgent care facilities or clinics from the list of facility types that are eligible to be credentialed and certified as hospitals. OAC 4123-6-02.3 describes the criteria for a provider's application and agreement or recertification application and agreement for the HPP. The rule is amended to make a technical correction. OAC 4123-6-02.4 describes the recertification process for HPP providers. The rule is amended to make technical corrections. OAC 4123-6-02.5 authorizes BWC to deny certification or recertification to or decertify an HPP provider under certain circumstances. The rule is amended to clarify that a provider must submit missing information upon request and allow BWC to deny certification or recertification if the provider fails to submit the requested information. OAC 4123-6-02.6 allows managed care organizations (MCOs) to retain a panel of BWC-certified providers for the HPP. The rule is amended to update language and make a technical correction. OAC 4123-6-02.7 outlines the procedures that the Administrator follows to terminate the enrollment of or decertify a non-facility HPP provider who has failed to comply with a workers' compensation statute or rule. The rule is amended to relocate a provision regarding provider correction plans and revise the timeframe for a provider who has twice received initial written notice to submit a correction plan to BWC from two violations of the same workers' compensation rule or statute within three years to three violations within eighteen months.

OAC 4123-6-02.21 authorizes BWC to enroll non-certified providers for the HPP. The rule is amended to give BWC the discretion to lapse provider certification and enrollment for no billing activity and remove a provision stating that the lapse of provider certification or enrollment for no billing activity is not an adjudication and not subject to an appeal. OAC 4123-6-02.51 authorizes BWC to decertify or refuse to certify or recertify any MCO, provider, or entity for participation in the HPP based on certain criminal convictions or civil actions. The rule is amended to make technical corrections. OAC 4123-6-03.7 authorizes the Administrator to decertify or refuse to certify or recertify an MCO for participation in the HPP if it has failed to comply with relevant laws or statutes. The rule is amended to make technical corrections. OAC 4123-6-03.9 requires MCOs who participate in the HPP to disclose relationships with affiliated individuals, corporations, or entities that have had or contemplate activities related to the Ohio workers' compensation system. The rule is amended to add alternate employer organizations to the list of affiliated entities that MCOs must disclose. OAC 4123-6-04.3 requires participating MCOs to provide medical management and claims management assistance. The rule is amended to declare that an MCO is not responsible for medical management and return to work services in a claim when the claim is assumed by BWC pursuant to OAC 4123-

6-04.6. OAC 4123-6-07 lists the services and supplies that may not be covered by BWC or an MCO. The rule is amended to make a technical correction. OAC 4123-6-10 sets forth how payments are to providers through the HPP, qualified health plans, or self-insuring employers. The rule is amended to update citations. OAC 4123-6-20 requires providers and physicians treating injured workers to maintain accurate documentation and reports. The rule is amended to make technical corrections. OAC 4123-6-20.1 ensures access to and reasonable charges for medical records necessary for the administration of a workers' compensation claim to all parties to the claim. The rule is amended to specify that only related medical information must be provided.

OAC 4123-6-21 sets forth how payments are made by BWC to HPP providers for outpatient medication for the treatment of a work-related injury or occupational disease in a claim allowed by BWC or the Ohio Industrial Commission (IC). The rule is amended to remove a reference to claims recognized by self-insuring employers, clarify when prescriptions from non-BWC certified providers may be reimbursed, authorize BWC to reimburse opioid prescriptions if prescribers follow current best medical practices pursuant to OAC 4731-11-13 and 4731-11-14 as promulgated by the State Medical Board of Ohio (Medical Board), require reimbursement requests for non-sterile compounded prescriptions to be pre-authorized, add home infusion services to the drugs that may be approved by an MCO as part of a comprehensive treatment plan, allow for exceptions to the dispensing fee component when a prescription is filled in a state that requires a different minimum dispensing fee, establish the dispensing fee component for sterile and non-sterile compounded prescriptions, and authorize BWC to override dispensing limitations when an emergency is declared by the governor of the state in which an injured worker is located or when it has determined medical necessity and appropriateness through the prior authorization process. OAC 4123-6-21.1 sets forth how payments are made by self-insuring employers for outpatient medication for the treatment of a work-related injury or occupational disease in a claim allowed by BWC or the IC or recognized by a self-insuring employer. The rule is amended to reduce the maximum product cost component reimbursement for any one non-sterile compounded prescription from $400 to $100, establish the dispensing fee component for sterile and non-sterile compounded prescriptions, allow for exceptions to the dispensing fee component when a prescription is filled in a state that requires a different minimum dispensing fee, and authorize BWC to override dispensing limitations when an emergency is declared by the governor of the state in which an injured worker is located. OAC 4123-6-21.8 provides for the reimbursement by BWC of services that assist in the discontinuation of medications. The rule is amended to remove the time limits on reimbursement of inpatient and outpatient care.

During early stakeholder outreach, BWC emailed notice to interested parties on April 1, 2025, requesting feedback on the proposed rules through April 14, 2025. Stakeholders who were contacted included BWC's managed care organizations, BWC's Health Care Quality Assurance Advisory Committee, BWC's Medical Services Division's 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 Medical Board, the 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 only one comment from a certified chiropractic sports physician who said she reviewed the rules but had no further feedback. During the CSI public comment period, BWC received a comment from MyMatrixx supporting the proposed alignment of standards for self-insuring employers with SIF employers with respect to the dollar cap placed on reimbursement for compounded medications. However, MyMatrixx had concerns with a proposed change that appeared to require pharmacies to submit both a prescriber National Provider Identifier (NPI) and federal Drug Enforcement Administration (DEA) number on their bills. Citing the DEA itself, MyMatrixx asserted that DEA numbers were not intended for use in general identification of providers in pharmacy-to-payer billing and that the NPI should suffice. BWC agreed and removed the requirement for pharmacy providers to include DEA numbers within its bills.

The business community impacted by the rules includes all HPP services providers, self-insuring employers, and MCOs. The adverse impacts created by the rules include the time and costs associated with submitting sufficient documentation, meeting credentialing criteria, and ensuring that medication is prescribed by a treating provider that is authorized by law to prescribe medication. BWC estimates that the time needed for HPP services providers, self-insuring employers, and MCOs to apply modifications to relevant systems is less than fifteen hours. Providers who fail to meet the minimum credentialing criteria are ineligible to participate in the HPP. Similarly, providers, MCOs, and entities may be decertified or be denied certification or recertification due to failure to comply with relevant laws or regulations or due to criminal convictions or civil actions. Pharmacy providers must include prescriber information with the bills they submit electronically for payment. BWC states that the adverse impacts to business are justified to implement legislative requirements, ensure that providers are qualified to render requested services, and establish appropriate parameters for all parties engaging in the administration, use, or provision of HPP services to Ohio injured workers to address medical conditions that result from workplace injuries.

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.