



Bureau of Workers' Compensation

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Stakeholder Feedback Recommendations for Lumbar Fusion Surgery, HBAI and Medical Treatment Reimbursement Requests Rules

Line #	Rule #/ Subject Matter	Stakeholder	Draft Rule Suggestions	Stakeholder Rationale	BWC Response	Resolution
1	OAC 4123-6-33	Dr. Rick Wickstrom, PT, DPT, CPE	Stipulate that any healthcare practitioner may submit a C-9 request for an evaluation or consultation without a physician referral or prescription.	Health behavioral assessment is a consultative service that any health evaluating practitioner should be eligible to submit a C-9 request. This service has potential for identifying the barriers to delayed recovery.	<p>The current language in the HBAI rule reflects Ohio's workers' compensation current approach to expectations of a POR. Various BWC rules reflects the expectations that PORs are considered the quarterback on handling injured workers treatment needs, appropriately requesting specialist services as needed. Thus, the current HBAI rule approach was deemed appropriate to ensure effective and consistent adherence to the intent of the rule and HBAI services.</p> <p>However, the current approach reflected in the HBAI services rule presented a conflict with an intent reflected in the lumbar fusion surgery rule. In the lumbar fusion surgery rule there is an absolute intent to promote and require an active equal involvement of the POR/treating physician and Surgeon in determining the appropriateness and necessity of a lumbar fusion surgery. Having the</p>	No modification made.

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					Surgeon or the treating physician unable to directly request an important prerequisite requirement for a lumbar fusion surgery conflicted that intent. The modification being made to both the HBAI services and lumbar fusion surgery rule were narrowly tailored to facilitate the stated intent.	
2	OAC 4123-6-33	Dr. Rick Wickstrom, PT, DPT, CPE	Requiring a different provider to perform the intervention does not make sense.	The intervention provider would still have to do their own evaluation as required by their practice act, and this requirement waste one of the authorized visits for intervention.	When BWC originally proposed and adopted the HBAI services rule 4123-6-33, this issue was evaluated. The determined position at the time which is still maintained is that the approach being reflected in this rule reflects current practice limitation on certain services. While the rule limits the ability of a single provider from doing the assessment and then intervention services, the rule does not prevent both assessment and intervention services from being provided by different providers of a singular practice group.	No modification made.
3	OAC 4123-6-32 A(4)	Dr. Paul Scheatzle, DO	Omit the "catastrophic condition" term from the list as it is too broad	Concerned the prerequisites could be too easily waived under the list of exclusions especially the emergency or catastrophic condition	BWC staff understands the concern presented. The staff believes that application of current BWC policy language on "catastrophic conditions" will be appropriately address the concerns presented. However, if additional policy language is determined to be necessary after consultation with the Health Care	No modification made.

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					Quality Assurance Advisory Committee, language will be added.	
4	OAC 4123-6-32	Dr. Mark Siegel, M.D.	Recommend if no supportive documentation, payment will be held and a response will be expected within 60 days. If no response, payment is held, if response is inadequate and does not meet recommendation, payment is held.	There is not an insurance company in the world that is prohibited from making payment if there is not documentation	The changes being made are not requiring payment for services without proper documentation. The language change was to address the issue of MCOs dismissing lumbar fusion surgery reimbursement due to missing documentation required by the rule. Given what is required for payment of a fusion is explicitly presented in the rule, the MCOs can only do one of 3 things: 1. Approve a request, 2. Deny a request, or 3. Pend a request seeking additional medical information. If the provider in compliance with other related rules/policies does not timely provide the additional required information, then the MCO should deny the request for reimbursement for a lumbar surgery. Given the specifics set forth in the payment for lumbar fusion surgery rule, it would be inappropriate for the MCOs to dismiss a treatment authorization request due to missing information. After an appropriate effort to attain the information from the requesting provider, the appropriate action would be to deny the request and allow the adjudicatory aspect of the system to operate.	No modification made.

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5	OAC 4123-6-33	Dave Schwartz, Ph.D. Ohio Psychological Association	The rule as written, has several problems which will significantly reduce its effectiveness	Section C (7), which prohibits the provider who performs the HBAI assessment from then providing clinical services, and D (5), which limits HBAI treatment to 6 sessions per year, are flawed and will negatively impact the effectiveness of this initiative.	When BWC originally proposed and adopted the HBAI services rule 4123-6-33, this issue was evaluated. The determined position at the time which is still maintained is that the approach being reflected in this rule reflect current practice limitations on certain services. While the rule limits the ability of a single provider from doing the assessment and then intervention services, the rule does not prevent both assessment and intervention services from being provided by different providers of a singular practice group. We have not received complaints that injured workers in rural areas are unable to receive services when requested, but will continue to monitor injured worker's effective access to these services.	No modification made.
6	OAC 4123-6-16.2	Dr. Dan Davis, M.D. Medical Director Occupational Health Link	Why make an exception to paragraph (F)(7) of rule 4123-6-16.2 due to lumbar fusion	Believe MCOs should pend an answer indefinitely until done. If there is no progress being made in getting necessary information, then dismissal seems appropriate like any other procedure.	Additional intervention services may be approved during the year, if the physician of record provides documentation the additional services are medically necessary.	No modification made.
7	OAC 4123-6-33 OAC 4123-6-32 OAC 4123-6-16.2	Laura McCrea, Ph.D.	The restriction that the provider who does the H & B assessment/evaluation cannot be the provider who offers the interventions.	Unnecessarily delays the H & B interventions as the injured worker attempts to find another provider. This may be especially difficult in rural areas or areas where there are limited providers	When BWC originally proposed and adopted the HBAI services rule 4123-6-33, this issue was evaluated. The determined position at the time which is still maintain is that the approach being reflected in this rule reflect current practice limitation on certain	No modification made.

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8	<p>OAC 4123-6-33 OAC 4123-6-32 OAC 4123-6-16.2</p>	<p>Laura McCrea, Ph.D.</p>	<p>The limitation to 6 visits per year may be too restrictive</p>	<p>Behavior change takes time, and six sessions may be too limited a time to identify the behavioral obstacles to recovery and teach the injured worker the necessary skills to overcome those barriers</p>	<p>Additional intervention services may be approved during the year, if the physician of record provides documentation the additional services are medically necessary.</p>	<p>No modification made.</p>
9	<p>4123-6-32</p>	<p>Dr. P Rao Lingam, M.D.</p>	<p>The proposed changes are going to apply different methodologies/standards to requests for reimbursement for surgical versus medical (non-surgical) treatments.</p>	<p>The MCO should be able to dismiss a medical or surgical treatment reimbursement request if supporting documentation has been requested and not provided in a reasonable period of time.</p>	<p>The recommended change will not on the whole create different standards for surgical versus non-surgical treatments. The language change is to address a new reality created by the fact that this is a treatment rule which requires specific conditions to be met in order for payment to be approved. Given what is required for payment of a fusion is explicitly presented in the rule, the MCOs can only do one of 3 things: 1. Approve a request, 2. Deny a request, or 3. Pend a request seeking additional medical information. If the</p>	<p>No modification made.</p>

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10	4123-6-32	Dr. Edward J Aube, DPT, PT	<p>This section allows the physician of record, treating physician or operating surgeon to order the assessment. Other providers should also be allowed to order a behavioral health assessment</p>	<p>Other providers often work on a more continuous basis and spend more time interacting with injured workers than physicians. They are often more familiar with the specifics of a case and may be more able to identify issues due to their length of time and familiarity with the injured worker.</p>	<p>The current language in the HBAI rule reflects Ohio's workers' compensation current approach to expectations of a POR. Various BWC rules reflects the expectations that PORs are considered the quarterback on handling injured workers treatment needs, appropriately requesting specialist services as needed. Thus, the current HBAI rule approach was deemed appropriate to ensure effective and consistent adherence to the intent of the rule and HBAI services.</p> <p>However, the current approach reflected in the HBAI services rule</p>	<p>No modification made.</p>

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					<p>presented a conflict with an intent reflected in the lumbar fusion surgery rule. In the lumbar fusion surgery rule there is an absolute intent to promote and require an active equal involvement of the POR/treating physician and Surgeon in determining the appropriateness and necessity of a lumbar fusion surgery. Having the Surgeon or the treating physician unable to directly request an important prerequisite requirement for a lumbar fusion surgery conflicted that intent. The modification being made to both the HBAI services and lumbar fusion surgery rule were narrowly tailored to facilitate the stated intent.</p>	
11	4123-6-32	Derek Scranton CorVel Ohio	The proposed rule eliminates the ability of the MCO to dismiss a C-9 request when the provider fails to provide additional information necessary to address the C-9	Without this ability, the C-9 can be pending indefinitely while awaiting the additional information necessary to address and approve the C-9 (required elements). This mechanism is available to the MCO with any other C-9 request, Lumbar Fusion Surgery should be no different	One of the issues that BWC was continually addressing was the dismissal of lumbar fusion surgery requests by the MCOs due to missing documentation as required by the rule. Given what is required for payment of a fusion is explicitly presented in the rule, the MCOs can only do one of 3 things: 1. Approve a request, 2. Deny a request, or 3. Pend a request seeking additional medical information. If the provider in compliance with other related rules/policies does not timely provide the additional required information, then the MCO should deny the request for reimbursement	No modification made.

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12	OAC 4123-6-33 OAC 4123-6-32 OAC 4123-6-16.2	Dr. Thomas Andreshak, MD	Agree with the changes outlined			No modification made.
13	OAC 4123-6-33 OAC 4123-6-32 OAC 4123-6-16.2	Dr. Michael Marvin, MD	Agree with the changes			No modification made.
14	OAC 4123-6-33 OAC 4123-6-32 OAC 4123-6-16.2	Dr. Matthew Levy, MD	Agree with the changes			No modification made.
15	OAC 4123-6-33 OAC 4123-6-32 OAC 4123-6-16.2	Dr. Michael T. Kelley, MD	Agree with the changes	They seem to be in the spirit of the regulation and add clarity to the rule.		No modification made.