

# CSI - Ohio

The Common Sense Initiative

## Business Impact Analysis

Agency Name: Ohio Bureau of Workers' Compensation

Regulation/Package Title: Coverage Initiation Rule

Rule Number(s): Rule 4123-17-13 of the Administrative Code

Date: 9/12/2014

**Rule Type:**

- |                                  |   |
|----------------------------------|---|
| <input type="checkbox"/> New     | <input checked="" type="checkbox"/> 5-Year Review |
| <input type="checkbox"/> Amended | <input type="checkbox"/> Rescinded                |

The Common Sense Initiative was established by Executive Order 2011-01K and placed within the Office of the Lieutenant Governor. Under the CSI Initiative, agencies should balance the critical objectives of all regulations with the costs of compliance by the regulated parties. Agencies should promote transparency, consistency, predictability, and flexibility in regulatory activities. Agencies should prioritize compliance over punishment, and to that end, should utilize plain language in the development of regulations.

### **Regulatory Intent**

**1. Please briefly describe the draft regulation in plain language.**

*Please include the key provisions of the regulation as well as any proposed amendments.*

Rule 4123-17-13 of the Administrative Code contains provisions governing an employer's initial application for coverage with BWC. The rule has been amended as part of BWC's implementation of its prospective billing system. The only substantive change to the rule is

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the addition of a paragraph that makes clear the procedure BWC will utilize when it is determined that an employer was required to obtain workers' compensation coverage and failed to do so. This change is outlined in 4123-17-13(C).

Rule to rescind:

4123-17-13 Rule controlling the making of the initial application for rating.

Rule to be adopted:

4123-17-13 Employer Application for Workers' Compensation Coverage.

**2. Please list the Ohio statute authorizing the Agency to adopt this regulation.**

4121.12, 4121.121, 4121.13, 4121.30, 4121.31

**3. Does the regulation implement a federal requirement? Is the proposed regulation being adopted or amended to enable the state to obtain or maintain approval to administer and enforce a federal law or to participate in a federal program?**

*If yes, please briefly explain the source and substance of the federal requirement.*

No.

**4. If the regulation includes provisions not specifically required by the federal government, please explain the rationale for exceeding the federal requirement.**

n/a

**5. What is the public purpose for this regulation (i.e., why does the Agency feel that there needs to be any regulation in this area at all)?**

Rule 4123-17-13 is necessary in order to give employer's guidance when instituting workers' compensation coverage in the state of Ohio.

**6. How will the Agency measure the success of this regulation in terms of outputs and/or outcomes?**

This rule does not lend itself to measurement. The success is measured in the ability of workers' compensation stakeholders understanding and following the rule.

**Development of the Regulation**

**7. Please list the stakeholders included by the Agency in the development or initial review of the draft regulation.**

*If applicable, please include the date and medium by which the stakeholders were initially contacted.*

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The Bureau has distributed this rule for comments to:

- BWC's Employer Services Division's Third Party Administrator (TPA) distribution list
- The Bureau's rules distribution list.

**8. What input was provided by the stakeholders, and how did that input affect the draft regulation being proposed by the Agency?**

The Bureau did not receive input from stakeholders specific to this rule.

**9. What scientific data was used to develop the rule or the measurable outcomes of the rule? How does this data support the regulation being proposed?**

n/a

**10. What alternative regulations (or specific provisions within the regulation) did the Agency consider, and why did it determine that these alternatives were not appropriate? If none, why didn't the Agency consider regulatory alternatives?**

This rule is meant as a guide to employers who wish to institute workers' compensation coverage in the state of Ohio. Since most employers are required to carry workers' compensation coverage with the Bureau pursuant to other laws and regulations, this rule outlines the procedures an employer and the Bureau must follow when an employer applies for coverage. Additionally, it serves as a notice to employers that failure to obtain the required coverage will result in a premium and assessment balance owed to the Bureau.

**11. Did the Agency specifically consider a performance-based regulation? Please explain. *Performance-based regulations define the required outcome, but don't dictate the process the regulated stakeholders must use to achieve compliance.***

Performance based regulations are not appropriate for the content of these rules.

**12. What measures did the Agency take to ensure that this regulation does not duplicate an existing Ohio regulation?**

The Bureau is the only state agency regulating workers' compensation claims, and thus there is not another agency promulgating rules on these subjects.

**13. Please describe the Agency's plan for implementation of the regulation, including any measures to ensure that the regulation is applied consistently and predictably for the regulated community.**

The Bureau will post the rules on its website, [www.ohio.bwc.gov](http://www.ohio.bwc.gov), and will distribute the rules to affected parties.

**Adverse Impact to Business**

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**14. Provide a summary of the estimated cost of compliance with the rule. Specifically, please do the following:**

- a. Identify the scope of the impacted business community;**
- b. Identify the nature of the adverse impact (e.g., license fees, fines, employer time for compliance); and**
- c. Quantify the expected adverse impact from the regulation.**

*The adverse impact can be quantified in terms of dollars, hours to comply, or other factors; and may be estimated for the entire regulated population or for a “representative business.” Please include the source for your information/estimated impact.*

- a. The impacted community includes employers in the workers’ compensation system.
- b. This rule creates an adverse impact to employers who are required to obtain coverage and fail to do so consisting of the premium and assessments due for the period of noncompliance.
- c. The adverse impact will differ depending on various factors that are used to calculate the amount of the premium and assessments due, including the length of the period of noncompliance and the associated payroll for that period.

**15. Why did the Agency determine that the regulatory intent justifies the adverse impact to the regulated business community?**

This rule is meant to serve as a guide to employers when initiating coverage and much of the content follows statutory mandates. Any adverse impact on the business community is a result of other Ohio laws and regulations pertaining to workers’ compensation coverage.

### **Regulatory Flexibility**

**16. Does the regulation provide any exemptions or alternative means of compliance for small businesses? Please explain.**

No.

**17. How will the agency apply Ohio Revised Code section 119.14 (waiver of fines and penalties for paperwork violations and first-time offenders) into implementation of the regulation?**

Not applicable. This rule does not result in a fine or penalty for a paperwork violation.

**18. What resources are available to assist small businesses with compliance of the regulation?**

Bureau rules and policies are available on [www.ohio.bwc.gov](http://www.ohio.bwc.gov). Also, BWC personnel are available to assist stakeholders in answering workers' compensation inquiries.