

CSI - Ohio

The Common Sense Initiative

Business Impact Analysis

Agency Name: Ohio Bureau of Workers' Compensation

Regulation/Package Title: Payroll Reporting Rule

Rule Number(s): Rule 4123-17-14 of the Administrative Code

Date: 01/29/2016

Rule Type:

- | | |
|--|---|
| <input type="checkbox"/> New | <input checked="" type="checkbox"/> Amend |
| <input type="checkbox"/> 5-Year Review | <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 Rescinded |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 4123-17-14 of the Administrative Code contains provisions governing the payroll reporting and premium payment requirements for employers. The only change governs the

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number of days before the due date that BWC will mail invoices for estimated premiums to employers.

Amended rules:

4123-17-14 Reporting of payroll and reconciliation of premium due.

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

4123.35; 4123.41

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 4123-17-14 is necessary in order to provide employers with the requirements, including due dates, for reporting payroll, paying estimated premiums, and reconciling actual payroll expended at the conclusion of a policy year.

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.

The Bureau has distributed this rule for comments to:

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- 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 received three comments regarding this rule, all of which are attached along with BWC's response. Due to system constraints, our printing and mailing timelines for physical invoices are limited. Adjustments were made to provide the maximum amount of time possible. In addition, invoices are posted to the BWC website well over 30 days before the due date.

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 when they report payroll, pay estimated premiums, and reporting actual payroll at the conclusion of the policy year. While unable to keep a 30-day notice, BWC has made changes to provide at least 23 days between mailing of the notice and due date. The invoice for the first installment will exceed 30 days. Additionally, BWC does provide employers with a notice of estimated annual premium, which is generated 60 days prior to the start of the policy year and includes due dates for all installments throughout the policy year.

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.

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The Bureau will post the rules on its website, www.ohio.bwc.gov, and will distribute the rules to affected parties.

Adverse Impact to Business

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 may create an adverse impact to some employers by decreasing the amount of time between mailing of the notice and the payment due date.
- c. The adverse impact will vary by month, but will be at most 6 days. In some instances, the notice is provided more than 30 days before the due date.

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

This rule is meant as a guide to employers when they report payroll, pay estimated premiums, and reporting actual payroll at the conclusion of the policy year. While unable to keep a 30-day notice, BWC has made changes to provide at least 23 days between mailing of the notice and due date. The invoice for the first installment will exceed 30 days. Additionally, BWC does provide employers with a notice of estimated annual premium, which is generated 60 days prior to the start of the policy year and includes due dates for all installments throughout the policy year. Finally, invoices are posted to the BWC website well over 30 days before the due date.

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. Also, BWC personnel are available to assist stakeholders in answering workers' compensation inquiries.