

CSI - Ohio

The Common Sense Initiative

Business Impact Analysis

Agency Name: Ohio Bureau of Workers' Compensation

Regulation/Package Title: Limitations on the filing of fee bills.

Rule Number(s): 4123-3-23 of the Administrative Code.

Date: September 29, 2016

Rule Type:

New

5-Year Review

Amended

Rescinded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 4123-3-23 of the Administrative Code provides, by statute, that in general, fee bills for medical or vocational rehabilitation services rendered in a claim must be submitted to the

77 SOUTH HIGH STREET | 30TH FLOOR | COLUMBUS, OHIO 43215-6117

CSIOhio@governor.ohio.gov

Bureau or to the Industrial Commission within one year of the date on which the service was rendered or one year after the date the services became payable under Ohio Revised Code 4123.511(I), whichever is later. Following a five year rule review, the Bureau has recommending filing this rule as a “no change” rule, with JCARR.

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

R.C. 4121.12, 4121.121, 4121.30, 4121.31, 4123.52, 4123.66

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.

Not applicable.

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)?

Pursuant to the requirements in R.C. 4123.52 this is necessary to clearly set forth the exceptions to the 1 year filing requirements. To that end, this rule fully describes the Bureau’s policy and procedures for the payment of fee bills for medical or vocational rehabilitation services rendered in a claim as required by statute. This includes the timeframe during which a fee bill for medical or other services rendered to an injured worker can be submitted or a request for additional payment on a previously adjudicated submitted bill and be made, to the Bureau or to the Industrial Commission, by the provider, as established by statute (R.C. 4123.511(B)), and any exceptions to those timeframes.

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

By the lack of untimely submitted bills, or untimely requests for additional payment on previously adjudicated submitted bills.

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.

77 SOUTH HIGH STREET | 30TH FLOOR | COLUMBUS, OHIO 43215-6117

CSIOhio@governor.ohio.gov

BWC's Managed Care Organizations (MCOs), the MCOs' Medical Directors,
BWC's internal medical provider stakeholder list -- 67 persons representing 52 medical
provider associations/groups

BWC's internal provider list serve (over 700 interested parties)

BWC's Healthcare Quality Assurance Advisory Committee

Ohio Attorney General's Office, Workers Compensation Section

Ohio Association for Justice

Employer Organizations:

Council of Smaller Enterprises (COSE)

Ohio Manufacturers' Association (OMA)

National Federation of Independent Business (NFIB)

Ohio Chamber of Commerce

BWC's Self-Insured Division's employer distribution list

BWC's Employer Services Division's Third Party Administrator (TPA) distribution list

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

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?

Not applicable.

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?

BWC did not consider alternative regulations. BWC is amending this rule for five year rule review purposes and recommending no change so that this rule continues to facilitate the Ohio Department of Medicaid's right of recovery in cases where Ohio Medicaid paid for services properly reimbursable under workers compensation, as well as Medicaid's authority to assign that recovery to individual medical providers.

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.*

No. This prescriptive approach is needed so that providers understand how to properly receive payment for services rendered, and to facilitate the administrative execution of the Ohio Department of Medicaid's right of recovery.

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

There are no other BWC rules on this subject. BWC rules are specific to BWC, and there are no other Ohio rules on this subject.

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.

Once the rule is approved and through the JCARR process, the rule will continue to be in effect.

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;

All HPP services providers billing for services rendered to Ohio’s injured workers, and MCOs.

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.

n/a

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

Not applicable.

Regulatory Flexibility

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

77 SOUTH HIGH STREET | 30TH FLOOR | COLUMBUS, OHIO 43215-6117

CSIOhio@governor.ohio.gov

No. The rule is applicable to all HPP providers billing for services, and to all of the MCOs charged with processing medical bills.

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.

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

BWC publicizes its rules and regulations on line at Ohiobwc.com. Additionally, the MCOs have a responsibility in their contract with BWC to provide training and support to all providers managing the medical care of Ohio's injured workers. The various units of the Medical Services Division, along with the appropriate business units within the Chief Medical Officer Division of BWC will also provide support and direction to impacted businesses regardless of size with respect to meeting Bureau regulations.