

CSI - Ohio

The Common Sense Initiative

Business Impact Analysis

Agency Name: Ohio Bureau of Workers' Compensation

Regulation/Package Title: Immediate allowance and payment of medical bills in claims.

Rule Number(s): 4123-3-36 of the Administrative Code.

Date: May 14, 2015

Rule Type:

New

Amended

5-Year Review

Rescinded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.

Pursuant to uncodified language in Substitute House Bill 75 of the 124th General Assembly and subsequent amendment of Ohio Revised Code 4121.511 by Amended House Bill 67 of

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

CSIOhio@governor.ohio.gov

the 126th General Assembly, in 2002 BWC implemented a Fast Response program for initial claim allowance of specific medical conditions that have a historical record of being allowed whenever included in a claim.

BWC is proposing to rescind the current Appendix A to the rule, which contains the ICD-9 codes and descriptions for the eligible Fast Response conditions identified by BWC, and replace it with a new Appendix A containing the corresponding ICD-10 codes and descriptions for those conditions.

Due to ICD-10's increased capacity to capture additional detail and complexity regarding medical conditions, the replacement Appendix A contains 201 ICD-10 codes, as opposed to the 49 ICD-9 codes in the current Appendix A identifying the same conditions.

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

R.C. 4121.12, 4121.121, 4121.30, 4121.31, 4123.05, 4123.511

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)?

The purpose of Fast Response is to immediately allow and begin payment for medical treatment in claims involving these specified conditions. If an employer contests the allowance of a claim involving any medical condition identified in the Fast Response program and the claim is ultimately disallowed, payment for the medical condition is charged to and paid from the surplus fund. .

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

Development of the Regulation

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

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

CSIOhio@governor.ohio.gov

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

BWC's proposed changes to Appendix A to rule OAC 4123-3-36 Immediate Allowance and Payment of Medical Bills in Claims was on March 18th provided to following lists of stakeholders for review and comment:

- BWC's Managed Care Organizations (MCOs) and 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:
 - o Council of Smaller Enterprises (COSE)
 - o Ohio Manufacturer's Association (OMA)
 - o National Federation of Independent Business (NFIB)
 - o 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?

There was only one comment received on the proposed changes which indicated support for the changes.

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. This update is simply to allow BWC to comply with effectively deploying ICD-10 codes in a claims processing application that currently uses ICD-9 codes. This will support BWC in meeting the Agency's obligation under paragraph (A) of Ohio Revised code 4123.511.

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?

Not applicable. This update is simply to allow BWC to comply with effectively deploying ICD-10 codes in a claims processing application that currently uses ICD-9 codes. This will

support BWC in meeting the Agency's obligation under paragraph (A) of Ohio Revised code 4123.511.

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.

Not applicable. This update is simply to allow BWC to comply with effectively deploying ICD-10 codes in a claims processing application that currently uses ICD-9 codes. This will support BWC in meeting the Agency's obligation under paragraph (A) of Ohio Revised code 4123.511.

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 rules are approved and through the JCARR process, the BWC staff impacted by the rules will be informed of the effective date. Because these changes are system driven all systems will be updated with the replacement codes as of October 1, 2015. Providers are being educated that BWC is adopted ICD-10 codes on October 1, 2015, with a support frequently asked question document being distributed outlining the protocols and timing for submission of ICD-9 and ICD-10 codes on first report of injuries and related service billing in allowed claims.

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;

Medical providers submitting supporting diagnosis (ICD) data to support the allowance and processing of injured workers claims

b. Identify the nature of the adverse impact (e.g., license fees, fines, employer time for compliance); and

Medical providers time for compliance with the change over from ICD-9 codes to relevant ICD-10 codes

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.

Quantifying the actual impact in terms of dollars, hours or other is difficult. However, we assert that the impact will be negligible for the medical provider community on the whole. The transition to begin using ICD-10 codes is an action that the entire medical community as a whole is undergoing; and is not a separate and distinct requirement of BWC. BWC’s action to adopt ICD-10 codes is not required and is being done to avoid the potential negative impact of the Agency’s staying with the current ICD-9 codes. Thus, medical providers should in general be well position to comply with the recommended changes to the appendix of the rule.

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

The purpose of Fast Response is to immediately allow and begin payment for medical treatment in claims involving these specified conditions. This update is simply to allow BWC to comply with effectively deploying ICD-10 codes in the claims processing application that currently uses ICD-9 codes. This will support BWC in meeting the Agency’s obligation under paragraph (A) of Ohio Revised code 4123.511.

Regulatory Flexibility

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

No. The purpose of Fast Response is to immediately allow and begin payment for medical treatment in claims involving these specified conditions. This update is simply to allow BWC to comply with effectively deploying ICD-10 codes in the claims processing application that currently uses ICD-9 codes. This will support BWC in meeting the Agency’s obligation under paragraph (A) of Ohio Revised code 4123.511.

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 update is simply to allow BWC to comply with effectively deploying ICD-10 codes in the claims processing application that currently uses ICD-9 codes. This will support BWC in meeting the Agency’s obligation under paragraph (A) of Ohio Revised code 4123.511.

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.