

BWC Board of Directors
Medical Services and Safety Committee Agenda

Thursday, May 26, 2011

William Green Building

Level 2, Room 3

8:45 A.M. – 10:00 A.M.

Call to Order

Jim Hummel, Committee Chair

Roll Call

Mike Sourek, Scribe

Approve Minutes of April 28, 2011 meeting

Jim Hummel, Committee Chair

Review and Approve Agenda*

Jim Hummel, Committee Chair

New Business/ Action Items

1. Motions for Board consideration:
 - A. For Second Reading
 1. Outpatient Medication Formulary Rule 4123-6-21.3
Johnnie Hanna, Pharmacy Program Director
 - B. For First Reading
 1. 4123-3-23 Limitations on the filing of fee bills
Freddie Johnson, Interim Chief Medical Services & Compliance

Discussion Items**

1. Customer Services and Safety Report
Tina Kielmeyer, Chief of Customer Services
2. Committee Calendar
Jim Hummel, Committee Chair

Adjourn

Jim Hummel, Committee Chair

Next Meeting: Wednesday, June 15, 2011

* Agenda subject to change

** Not all discussion items may have materials

2011 Common Sense Initiative Checklist (BWC Rules)

(Note: The below criteria apply to existing and newly developed rules)

Rule 4123-6-21.3

Rule Review

1. The rule is needed to implement an underlying statute.

Citation: R.C. 4121.441; R.C. 4123.66

2. The rule achieves an Ohio specific public policy goal.

What goal(s): This rule allows the bureau to improve the efficiency and safety of treatment for injured workers by implementing a formulary of approved medications. A formulary provides the prescriber with information regarding any restrictions or limitations to the use of an approved medication. The use of a formulary enhances medication safety by allowing for a thorough review of the clinical merits of new medications before they are approved for reimbursement. It also provides a statutory process by which the bureau may remove or limit the inappropriate utilization of medications in keeping with FDA recommendations as well as those found in current clinical literature and best medical practices.

3. The rule is effective, consistent and efficient.

4. The rule is not duplicative of rules already in existence.

5. The rule is consistent with other state regulations, flexible, and reasonably balances the regulatory objectives and burden.

6. The rule has been reviewed for unintended negative consequences.

7. Stakeholders, and those affected by the rule were provided opportunity for input as appropriate.

Explain: BWC's proposed changes to the rule were e-mailed to the BWC Medical Division's list of stakeholders on April 18, 2011. Stakeholders were given until May 13, 2011, to submit comments. The proposed rule was also discussed in the BWC Pharmacy & Therapeutics Committee meeting on March 9, 2011.

8. The rule was reviewed for clarity and for easy comprehension.

9. The rule promotes transparency and predictability of regulatory activity.

10. The rule is based on the best scientific and technical information, and is designed so it can be applied consistently.

11. The rule is not unnecessarily burdensome or costly to those affected by rule.

If so, how does the need for the rule outweigh burden and cost? _____

BWC Board of Directors
Executive Summary
Outpatient Medication Formulary Rule
OAC 4123-6-21.3

Introduction

Chapter 4123-6 of the Administrative Code contains BWC rules implementing the Health Partnership Program (HPP) for state fund employers.

The overarching concern of OAC 4123-6-21, the outpatient medication payment rule, can be found in paragraph (A), which allows the Bureau to

. . . deny a drug or therapeutic class of drugs as not being reasonably related to or medically necessary for treatment of an allowed condition in a claim...

OAC 4123-6-21(O) currently provides that BWC may maintain a drug formulary. A formulary is a list of drugs approved for reimbursement when prescribed to treat conditions allowed in the claim.

BWC proposes new rule OAC 4123-6-21.3 to establish an outpatient medication formulary. The formulary will be developed and maintained with the recommendation of the BWC Pharmacy & Therapeutics Committee (P&T Committee) pursuant to its responsibilities as set forth in OAC 4123-6-21.2.

Background Law

R.C. 4123.66(A) provides that the BWC Administrator “shall disburse and pay from the state insurance fund the amounts for medical, nurse, and hospital services and medicine as the administrator deems proper,” and that the Administrator “may adopt rules, with the advice and consent of the [BWC] board of directors, with respect to furnishing medical, nurse, and hospital service and medicine to injured or disabled employees entitled thereto, and for the payment therefore.”

R.C. 4121.441(A) provides that the BWC Administrator, with the advice and consent of the BWC Board of Directors, shall adopt rules for implementation of the HPP “to provide medical, surgical, nursing, drug, hospital, and rehabilitation services and supplies” to injured workers, including in paragraph (A)(8) “[d]iscounted pricing for . . . all pharmaceutical services.”

Proposed Rule

BWC proposes new rule OAC 4123-6-21.3 to improve the efficiency of treatment for injured workers by providing prescribers with a concise list of medications that can be utilized for treatment of approved conditions related to the claim. The formulary also provides the prescriber with information regarding any restrictions or limitations to the use of an approved medication. Likewise the prescriber will know that if a medication is not listed in the formulary, then it will not be reimbursed for treatment of any conditions in a claim. The use of a formulary enhances medication safety by allowing time for the P&T Committee to conduct a thorough review of the clinical merits of new medications before they are approved for use. It will also provide a statutory process by which the bureau may remove or limit the inappropriate utilization of medications in keeping with FDA recommendations as well as current clinical literature and best medical practices.

BWC requests that proposed rule OAC 4123-6-21.3 be adopted.

Stakeholder Involvement

BWC's proposed rule OAC 4123-6-21.3 was e-mailed to the following lists of stakeholders on April 13, 2011 with comments due back by May 6, 2011:

- BWC's Managed Care Organizations and the MCO League representative
- BWC's internal medical provider stakeholder list - 68 persons representing 56 medical provider associations/groups
- BWC's Healthcare Quality Assurance Advisory Committee
- Ohio Association for Justice
- Employer Organizations
 - Council of Smaller Enterprises (COSE)
 - Ohio Manufacturer's 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

A draft of proposed rule OAC 4123-6-21.3 and a draft of the formulary appendix was reviewed by the P&T Committee at its meeting on March 9, 2011. The Committee voted to recommend that the Administrator adopt the rule and formulary.

Stakeholder responses received by BWC will be summarized on the Stakeholder Feedback Summary Spreadsheet for the second reading of the rules.

4123-6-21.3 Outpatient Medication Formulary.

(A) The administrator hereby adopts the formulary indicated in appendix A to this rule, developed with the recommendation of the bureau's pharmacy and therapeutics committee, effective September 1, 2011.

(B) The formulary indicated in appendix A to this rule shall constitute the complete list of medications that are approved for reimbursement by the bureau for the treatment of an occupational injury or disease in an allowed claim. Drugs not listed in the formulary are not eligible for reimbursement by the bureau.

(C) The formulary indicated in appendix A to this rule also contains specific reimbursement, prescribing or dispensing restrictions that have been placed on the use of listed drugs. The formulary will be reviewed annually and updated as necessary. The most current version will be electronically published by the bureau.

(D) Based upon current medical literature and generally accepted best clinical practices the bureau's pharmacy and therapeutics committee shall evaluate and make recommendations to the administrator regarding the addition, deletion or modification of coverage of medications listed in the formulary. Requests for pharmacy and therapeutics committee action on a specific drug may be initiated by the bureau's administrator, chief of medical services, chief medical officer, or pharmacy director.

(E) The bureau shall develop policies to perform an expedited review process for clinically or therapeutically unique medications. The bureau shall also develop policies to address the timely review of new drug products.

Effective: 9/1/11

B2= Stakeholder Feedback Formulary Rule 4123-6-21 3

Stakeholder	Feedback	BWC Response
Sandy Simons Genex Services Wayne, PA	Just a personal comment about the proposed rule -- This is GREAT! Received 4-21-11	Acknowledgement and thanks. Sent 5-9-11
Lora Miller Director of Gov. Affairs and Public Relations Ohio Council of Retail Merchants	Who reviewed the drugs -- the P&T Committee? Received 4-26-11	Yes, the formulary was reviewed by the P&T committee. The list includes all drugs that were approved by BWC for the past 3 years. Sent 4-26-11
Dr. Stephen Duritsch Rehabmed Associates Troy, OH	As I scanned the list, the formulary is fine and is consistent with my normal practice. Received 5-2-11	Acknowledgement and thanks. Sent 5-9-11
Cory Wedding Special Projects Manager Modern Medical Inc. Lewis Center, OH	Does this proposed rule also affect Self Insured employers? Received 5-2-11	This rule and formulary is for state fund claims only. An SI employers would not be precluded from using it, but they are not required to use it. Sent 5-2-11

B2= Stakeholder Feedback Formulary Rule 4123-6-21 3

Stakeholder	Feedback	BWC Response
<p>Dr. Scott Dowling Psychiatry Shaker Heights, OH</p>	<p>I have reviewed the formulary re psychiatric related meds. Generally it is a fine list. Suggestions I would make are:</p> <ol style="list-style-type: none"> 1. Include Aricept with the Alzheimer's meds. Nomedra is approved only for moderate or advanced Alzheimers; Aricept is approved for mild or moderate. Most patients are initially seen in mild or moderate state and only Aricept is approved for treating them. 2. Non barbituate sedatives: psychiatrists often use Trazodone as a non-habituating sedative. There is the single side effect of priapism that seems to scuttle its use by some practitioners.. but there are few reports of this and general usage is great. 3. Non Barb sedative: Halcion should be removed from the list. It has no advantages over others listed, is habituating and has serious side effects. 4. Antianxiety: Please include clonazepam for its ease of use, slow onset (no sudden benzo effect) and acceptability. 5. Antianxiety: Remove Librium.. little used. Other agents better. <p>Received 5-3-11</p>	<p>The medications listed in the formulary include all of those that have been prescribed for injured workers since 2008. Aricept has not been used during this period. We will take this recommendation to the P&T Committee at the June meeting. Both trazadone and clonazepam are on the formulary and as such may be used for out of class or non-FDA listed indications. We will consider the recommendation to delete librium and halcion at the June P&T Committee meeting.</p> <p style="text-align: right;">Sent 5-9-11</p>

B2= Stakeholder Feedback Formulary Rule 4123-6-21 3

Stakeholder	Feedback	BWC Response
Phil Fulton, Vice President Ohio Assn. of Claimants Counsel Columbus	Our concern was that there was no appeal process to challenge a medication not part of the formulary. At the very least, we believe there should be a procedure before the Administrator's designee. Received 5-4-11 Stakeholder asked that his continuing objection be noted. Received 5-13-11	While the P&T Committee, an advisory board made up of clinicians, makes recommendations for the formulary, the formulary itself is adopted by BWC via the Chapter 119 rulemaking process. The rulemaking process is designed to furnish the public with a venue to provide input. A further mechanism such as appeal to an Administrator's designee is unnecessary. Sent 5-13-11.
Bob Kendis, President Ohio Assn. of Claimants Counsel Columbus	I had two concerns. One was that there was no provision for the exception or the rare case where a claimant needs the meds that have not been approved because he is allergic to the approved meds. Second, please consider a process for an emergency exception to the formulary where the situation is unusual and the committee has not met yet to consider the med. This would provide some protection for the injured worker until a more formal decision can be made. Received 5-4-11 ☒	The formulary includes all drugs that were approved by BWC for the past 3 years. It is extremely unlikely that an IW would be allergic to every drug on the formulary in the drug class appropriate for treatment of the IW's allowed conditions. Paragraph (E) of the proposed formulary rule provides that BWC shall develop policies "to perform an expedited review process for clinically or therapeutically unique medications" and to "address the timely review of new drug products." This is meant to cover unusual or emergency situations. Sent 5-13-11
Toni Premier MSS BWC	All of the cardiac meds require prior auth or related claim allowance. All of the pulmonary/asthma meds do NOT. This type of medication is frequently abused within the billing system and they are generally expensive. They also apparently changed their minds about the proton pump inhibitors because they do not need to be claim allowance related either. Received 5-6-11	We will recommend that the pulmonary and asthma drugs be moved into the relatedness category at the June P&T Committee meeting. Recommendations for action to restrict the use of the proton pump inhibitors and histamine-2 receptor antagonists will also be on the agenda at that meeting. Sent 5-9-11

B2= Stakeholder Feedback Formulary Rule 4123-6-21 3

Stakeholder	Feedback	BWC Response
<p>Alan B Levy, MD Chair, Psychiatric Practice Committee Ohio Psychiatric Physicians Assn.</p>	<p>Thank you for making your proposed formulary available online for review. As a psychiatrist, I noticed 2 omissions which would potentially compromise patient care. While Lithium is an approved medication for mood stabilization, there are some patients who cannot tolerate the immediate-release form of this medication and can only take a controlled release form such as Eskalith CR or Lithobid. I would ask that you consider adding one or both of these long-acting forms of Lithium. Secondly, Adderall (and Adderall XR) was left off the formulary for treatment of ADHD. I would ask that Adderall be permitted as some patients respond preferably to this compound. Received 5-11-11</p>	<p>In our formulary, unless otherwise specifically restricted, all dosage forms of a drug are included. Restrictions and limitations on dosage form or quantity will be noted in the last column for each drug. To your specific questions, since Lithobid is an extended-release form of lithium carbonate, it is allowed. Eskalith and Adderall are both listed on the formulary. Sent 5-13-11</p>

2011 Common Sense Initiative Checklist (BWC Rules)

(Note: The below criteria apply to existing and newly developed rules)

Rule 4123-3-23

Rule Review

1. The rule is needed to implement an underlying statute.

Citation: R.C. 4123.52

2. The rule achieves an Ohio specific public policy goal.
What goal(s): This rule change is being made to conform with a recent change in statute, and will bring the timeframe for submitting bills to BWC more in line with other payers.

3. The rule is effective, consistent and efficient.

4. The rule is not duplicative of rules already in existence.

5. The rule is consistent with other state regulations, flexible, and reasonably balances the regulatory objectives and burden.

6. The rule has been reviewed for unintended negative consequences.

7. Stakeholders, and those affected by the rule were provided opportunity for input as appropriate.

Explain: BWC's proposed changes to the rule were e-mailed to the BWC Medical Division's list of stakeholders on May 13, 2011. Stakeholders were given until May 23, 2011, to submit comments. Additionally, on May 12, 2011 this was directly provided to the Ohio Hospital Association.

8. The rule was reviewed for clarity and for easy comprehension.

9. The rule promotes transparency and predictability of regulatory activity.

10. The rule is based on the best scientific and technical information, and is designed so it can be applied consistently.

11. The rule is not unnecessarily burdensome or costly to those affected by rule.

If so, how does the need for the rule outweigh burden and cost? _____

BWC Board of Directors
Executive Summary
Limitations on the Filing of Fee Bills
OAC 4123-3-23

Introduction

OAC 4123-3-23 has provided for many years that fee bills for medical or other services rendered to injured workers must be submitted to BWC or the Industrial Commission within two years of the date of service or 6 months from the date of the final order allowing the claim.

HB 123 will amend Ohio Revised Code 4123.52 effective July 29, 2011 to provide by statute that in general, fee bills for medical or vocational rehabilitation services rendered in a claim must be submitted BWC or 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.

BWC therefore proposes to rescind current OAC 4123-3-23 and replace it with a rule that conforms to the amended statute, and includes several additional provisions/exceptions. This will bring the timeframe for submitting bills to BWC more in line with other payers.

Background Law

As amended by HB 123 effective July 29, 2011, Ohio Revised Code 4123.52 paragraphs (A), (B), and (C) shall provide in relevant part as follows:

Sec. 4123.52. (A) . . . The commission shall not make any modification, change, finding, or award which shall award compensation for a back period in excess of two years prior to the date of filing application therefor. ~~This~~

(B) Notwithstanding division (A) of this section, and except as otherwise provided in a rule that shall be adopted by the administrator, with the advice and consent of the bureau of workers' compensation board of directors, neither the administrator nor the commission shall make any finding or award for payment of medical or vocational rehabilitation services submitted for payment more than one year after the date the services were rendered or more than one year after the date the services became payable under division (I) of section 4123.511 of the Revised Code, whichever is later. No medical or vocational rehabilitation provider shall bill a claimant for services rendered if the administrator or commission is prohibited from making that payment under this division.

(C) Division (B) of this section does not apply to requests made by the centers for medicare and medicaid services in the United States department of health and human services for reimbursement of conditional payments made pursuant to section 1395y(b)(2) of title 42, United States Code (commonly known as the "Medicare Secondary Payer Act").

Proposed Changes

The major substantive changes proposed for the Limitations on the Filing of Fee Bills rule OAC 4123-3-23 are:

- In general, fee bills for medical or vocational rehabilitation services rendered in a claim must be submitted to BWC or 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;
- A self-insuring employer may, but is not required to, negotiate with a provider to accept fee bills from the provider for a different time period;
- The one year limitation does not apply to the following situations, which will still be subject to the two year jurisdictional limitation in Ohio Revised Code 4123.52(A):
 - Requests made by the Centers for Medicare and Medicaid Services for reimbursement of “conditional payments” made pursuant to the Medicare Secondary Payer Act;
 - Fee bills submitted outside the one year timeframe because of BWC or MCO error;
 - Fee bills submitted outside the one year timeframe because the fee bills were initially submitted to a different third-party payer or state or federal program and that payer or program has determined that it is not responsible for reimbursement of the services.
- Finally, requests for payment adjustments on fee bills that were initially submitted timely under this rule must be made within one year and seven days of the adjudication of the initial fee bill by the bureau.

Stakeholder Involvement

BWC's proposed changes to the Limitations on the Filing of Fee Bills rule OAC 4123-3-23 were e-mailed to the following lists of stakeholders on May 13, 2011, with comments due back by May 23, 2011:

- BWC's Managed Care Organizations and the MCO League representative
- BWC's internal medical provider stakeholder list - 68 persons representing 56 medical provider associations/groups
- BWC's Healthcare Quality Assurance Advisory Committee
- Ohio Association for Justice
- Employer Organizations
 - Council of Smaller Enterprises (COSE)
 - Ohio Manufacturer's 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

Additionally, on May 12, 2011 this was directly provided to the Ohio Hospital Association.

Currently received stakeholder and interested party responses are summarized on the Stakeholder Feedback Summary Spreadsheet.

4123-3-23 Limitations on the filing of fee bills.

(A) Except as otherwise provided in this rule, fee bills for medical or vocational rehabilitation services rendered in a claim shall be submitted to the bureau or commission for payment within one year of the date on which the service was rendered or one year after the date the services became payable under division (I) of section 4123.511 of the Revised Code, whichever is later, or shall be forever barred.

(B) A self-insuring employer may, but is not required to, negotiate with a provider to accept fee bills from the provider for a time period other than as set forth in paragraph (A) of this rule.

(C) Paragraph (A) of this rule shall not apply to the following; however, division (A) of section 4123.52 of the Revised Code shall still apply:

(1) Requests made by the centers for medicare and medicaid services in the United States department of health and human services for reimbursement of conditional payments made pursuant to section 1395y(b)(2) of title 42, United States Code (commonly known as the "Medicare Secondary Payer Act");

(2) Fee bills submitted outside the timeframe set forth in paragraph (A) of this rule due to administrative error by the MCO or the bureau;

(3) Fee bills submitted outside the timeframe set forth in paragraph (A) of this rule because the fee bills were initially submitted to a patient, different third-party payer, or state or federal program that reimburses for medical or vocational rehabilitation services and that patient, payer, or program has determined that it is not responsible for the cost of the services.

(D) Requests for payment adjustments on fee bills that were initially timely submitted under this rule shall be submitted within one year and seven days of the adjudication of the initial fee bill by the bureau or shall be forever barred.

Effective: _____

To be rescinded

4123-3-23 Limitations on the filing of fee bills.

~~Fee services rendered in a claim shall be filed with the bureau or commission within two years of the date on which the service was rendered or shall be forever barred.~~

~~In cases where the claim was disallowed and by later action is allowed, such fee bills shall be filed within six months from the date of the mailing of the final order allowing the claim or be forever barred. Thus, a fee bill to be timely filed, must be filed either within two years from the date services were rendered or within six months from the date of the mailing of the final order of allowance of claim, whichever period of time is longer, or be forever barred.~~

Effective: 11/28/03

Prior Effective Dates: 1/1/64, 1/9/67, 1/16/78



Bureau of Workers' Compensation

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Governor **John R. Kasich**
Administrator/CEO **Stephen Buehrer**

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Stakeholder Feedback Recommendations for Changes to the Rule 4123-3-23

Line #	Rule #/Subject Matter	Stakeholder	Draft Rule Suggestions	BWC Response	Resolution
1.	Rule 4123-3-23	Steve Hatton Risk Manager SuperValu Holdings Inc.	This proposal has my full support	Accepted	No change required
2.	Rule 4123-3-23	Sharon Burchfield Cincinnati Children's Hospital Medical Center Injury Management Specialist	I would like this to be 6 months that is what private carriers use insurance purposes less confusing.	When BWC evaluated moving the timeframe a number of options were evaluated and feedback taken. Based on the feedback, it was determined that BWC's objectives could be achieved with a 1 year limitation, with minimum impact to providers. Additionally, this timeframe is in line with Medicare timeline for provider bill submission.	Maintain recommendations
3.	Rule 4123-3-23	(Ms) Marty J. Embry Corporate Claims Manager Direct Energy - US Home Services 3300 Bingle Road Houston, Texas 77055	I believe the injured worker should be protected from a collection or subrogation claim from the vendor should the vendor fail to submit his billing timely. This protection would extend to approve WC claims.	BWC agrees with this comment. This protection is provided in the revision to ORC 4123.52 (B).	No change required

Line #	Rule #/Subject Matter	Stakeholder	Draft Rule Suggestions	BWC Response	Resolution
4.	Rule 4123-3-23	Bridget Viton Patient Accounts Analyst, Southwest General	Please advise if 4123-3-23 Limitations on the filing of fee bills is for all hospital services. If not please specify which services fall under this proposed change. Also does this in any way affect the time limit we have to file an appeal? When would this proposed change take place?	The rule does apply to all workers compensation related hospital services. If a fee bill has been submitted within the required timeframe and paid, appeals relative to the adjudication of the bill is not affected. The rule is being amended to reflect changes in the statute which is effective July, 2011. The rule itself will be affective in September 2011 depending on the JCARR process.	
5.	Rule 4123-3-23	Stephen Duritsch MD Phys Med and Rehab	The proposed changes appear to be reasonable for my specialty practice. A year is fairly standard for a filing deadline and a timeframe that we can live with. I see no major issues.	Accepted	No change required

Line #	Rule #/Subject Matter	Stakeholder	Draft Rule Suggestions	BWC Response	Resolution
6.	Rule 4123-3-23	Nancy_Seymour@acmestores.com	<p>Thank you for the changes proposed in the draft of this rule on filing fee bills. I have always felt that one year was more than enough for a provider to submit a valid bill. The BWC has gone to great lengths to provide all the information a provider needs to bill it correctly the first time.</p> <p>I do, however, disagree with the wording of Section C. The current wording automatically grants an additional 365 days if the provider claims any one of the 3 exemptions and the language does not require the provider to prove their claim. I understand that Medicare conditional payments may need extra time, but the old rule should not take precedence in sections C2 and C3 for providers other than Medicare. Simply give them an additional 30 days and make that extension conditioned on if the provider give written proof as to the reason the bill was not submitted properly in the first place.</p> <p>If a provider refuses to avail himself of the information provided by the BWC and erroneously sends a bill to the BWC, the wrong TPA or self-insurer, we have only 30 days to deny the bill or request more information. Why should a provider be granted 335 additional days to act on that denial or to come up with the additional information when it would take them less than 10 minutes to look up the information on the BWC website and call the claims manager?</p>	<p>BWC understands the party's comments. Providers will have to show the actual existence of the exceptions as provided in paragraph C of the rule revisions. Given the limited circumstances and situations in which this will occur BWC did not feel that further restricting this timeframe is necessary.</p>	<p>No change required</p>

Line #	Rule #/Subject Matter	Stakeholder	Draft Rule Suggestions	BWC Response	Resolution
7.	Rule 4123-3-23	<p>Charles Cataline Senior Director, Health Policy The Ohio Hospital Association 155 East Broad St., FL 15 Columbus, Ohio 43215</p>	<p>OHA recommends adding an exception for instances where a bill paid by another payer is retroactively recouped because the payer determines the services were work-related. OHA also recommends BWC be specific about the amount of time the exceptions in Sec. (C) allow. Based on similar Medicaid and Medicare rules OHA recommends 180 days from the defining circumstance.</p>	<p>BWC discussed with OHA their concerns. Pursuant to that discussion BWC agreed that the potential of a patient paying their own bills and then determining that they should not have paid the same was a possibility. BWC further agree that the injured worker's determination bill should be paid by workers compensation could come after one year and should also be addressed in the rule revisions.</p> <p>Once it was explained that in instances where exceptions as indicated in paragraph C existed, then the provider as with Medicare has 2 years to address the outstanding bill the responder did not feel that the 180 days was necessary.</p>	<p>Change made to paragraph C 3 where the word "patient" was added to the rule.</p>

CUSTOMER SERVICES REPORT

May 26, 2011

BWC and OSHA Alliances

Overview of OSHA Onsite

Most of us are familiar with the Occupational Safety and Health Administration, OSHA. OSHA doesn't only do enforcement activities; they also have cooperative programs, two of which are the OSHA On-Site Consultation Program, and the Alliance Program. The BWC's OSHA On-Site Consultation Program is a free occupational safety and health consultation service that is primarily intended to serve Ohio's small, private, high-hazard employers. The majority of the work done by OSHA On-Site Consultants consists of consultative visits to employer worksites. The program does not have the right of entry, and so program services must be requested by the employer.

The program is largely funded by Federal OSHA (90%), with the remainder of its funding supplied by the Division of Safety and Hygiene (%10).

Although the program is associated with OSHA, it does not assess fines or penalties, and the results of consultations are not routinely reported to OSHA. There are OSHA consultation programs in every state and possession in the nation.

Ohio has had an OSHA On-Site Consultation Program since 1975. The program has been with the BWC since 2005.

OSHA alliances

Along with its enforcement of standards that apply to occupational safety and health in our nation's workplaces, OSHA also reaches out to stakeholders to work cooperatively on safety and health issues. The OSHA On-Site Consultation Program is one way that OSHA provides assistance to employers. Another way is through its Alliance Program.

OSHA began its Alliance program in 2002. OSHA alliances are vehicles through which OSHA works in a cooperative way with other organizations that are concerned with workplace safety and health. OSHA works with these groups to develop compliance assistance tools and to provide education to workers and employers about their rights and responsibilities.

There are OSHA National Office Alliances and there are OSHA state and regional alliances.

OSHA Alliances have three main goals:

- training and education;
- outreach and communication;
- Promoting the national dialogue on workplace safety.

These components are the heart of the alliances, and all OSHA Alliances focus on these three goals.

OSHA Alliances typically last two years and may also be renewed.

History of OSHA Alliances and BWC

BWC's history of involvement with OSHA Alliances began with the arrival of the OSHA On-Site Consultation Program in June of 2005. BWC's OSHA On-Site Consultation Program has been a signatory to several OSHA Alliances. In nearly every case, the On-Site Program's participation has involved being available to provide consultative services to employer alliance participants. Among the OSHA Alliances that the program has been associated with are the following:

- Ohio Concrete Masonry
- Central Ohio National Federation of Independent Businessmen
- Cuyahoga Community College
- OhioHealth Dublin Hospital Project
- Marble Institute of America
- Construction Safety Council of Northeast Ohio
- Temporary Worker Alliance
- Council of Smaller Enterprises, COSE

I would like to comment on two significant alliances.

Overview of the BWC/OSHA Alliance for temporary workers

First and one of the most successful OSHA Alliances is the Temporary Worker Alliance begun in October, 2007. The Alliance was with the Columbus Area OSHA Office, BWC, CBS Personnel Holdings, Inc., a self-insured employer in Cincinnati, and the Ohio Staffing and Search Association. The purpose of the alliance was to provide safety orientation training to employees of staffing organizations.

BWC developed a free training course called, "Employee Safety for Staffing Companies & Professional Employer Associations." A DVD called, "Temporary Worker Safety," was developed in both English and Spanish versions.

Although the alliance has since expired, it is still bearing fruit. Training for staffing employers has continued to be conducted at OCOSH, and training DVDs produced by the alliance are still being distributed; the videos are also available on BWC's website.

Twenty five hundred English language DVDs were produced, and approximately 2000 were distributed. A total of 750 Spanish version DVD's were produced. Approximately 500 of these were distributed.

Some of the DVDs were distributed to other states at OSHA's Annual Consultation Training Conferences in San Diego, California and in Orlando, Florida.

It was very satisfying being able to participate in this alliance because the product that was produced was so tangible and valuable.

It is worth noting that BWC employee Ford Sledge was instrumental in the success of this alliance.

Overview of the current BWC/OSHA Alliance with COSE (Council of Smaller Enterprises)

The newest OSHA Alliance that the BWC's OSHA On-Site Consultation Program is participating in is with the Cleveland Area OSHA Office and COSE, the Council of Smaller Enterprises. The purpose of this alliance is to provide COSE member companies with "information, guidance, and access to training resources" to help them prevent death and serious injuries in their workplaces.

COSE is a small business support organization. They provide such services as group purchasing and advocacy on legislative and regulatory issues. They also provide networking opportunities for their members. COSE has over 15,000 members. The organization is focused mostly on employers in the northeastern part of the state.

As I said above, OSHA Alliances have three main goals:

- training and education:
- outreach and communication;
- Promoting the national dialogue on workplace safety.

In the Alliance with COSE, the training and education goal will involve working together to provide expertise and develop safety and health training and education programs for COSE member companies.

The outreach and communication goal will consist of working together to provide a variety of ways to communicate to COSE employers' hazard recognition and prevention expertise.

The final goal of promoting the national dialogue on workplace safety will be achieved by raising industry awareness and demonstrating the commitment of Alliance members to workplace safety, whenever outside groups are addressed. Additionally, the dialogue on workplace safety will be promoted by developing and publicizing success stories illustrating the purpose and business value of COSE member companies' commitment to employee safety and health. Alliance members will also participate in various types of meetings on small business occupational safety and health issues.

81st Safety Congress and Expo Report

This is a summary of the 81st Safety Congress & Expo.

Two months ago, BWC hosted the 2011 Ohio Safety Congress & Expo at the Greater Columbus Convention Center. 4,750 **participants** representing 1,750 (2,340 in 2010) **businesses** attended the event to receive education and training in:

1. Occupational safety and health
2. Accident and injury prevention
3. Claims and risk management
4. Workers' compensation

Thank you to the Directors here today who were also able to attend.

There are numerous state-level safety and workers' compensation conferences, but BWC's Safety Congress is recognized as the largest, most established government- or privately-sponsored state conference in the country.

Participants who attended the Safety Congress represented state and federal agencies, public taxing districts, self-insured and private employers. Specifically,

1. 46% represented **state-fund private** employers
2. 26% represented **state and local government**, and
3. 24% represented **self-insured** employers
4. Manufacturing (24.93%), government (15.5%) and construction (7.56%) were the most highly represented market segments
5. 30% percent of participants attended for the **first time**
6. 65% (74% in 2010) of participants work for businesses with **fewer than 100 employees**

In addition, the Safety Congress also provided continuing education and professional development to 280 **BWC employees** which reduced the cost of instruction and expenses for our own staff development.

Based on customer feedback from last year, the Safety Congress schedule was restructured to better serve the needs of participants and exhibitors.

Full-day workshops were offered only on day 1, followed by two days of lecture sessions with staggered start times. 84% of survey respondents benefited from the variable start times, as it provided more flexibility and time to visit the expo floor.

In terms of **programming**, 170 continuing-education lecture sessions and 3 general sessions were offered.

The featured presenters for the general sessions were:

- Administrator Buehrer
- Governor Kasich
- Mr. Dave Rife, Vice President of White Castle Systems, and
- Dr. John Howard, Director of the National Institute for Occupational Safety & Health

The lecture **sessions** consisted of 125 safety-related sessions and 25 workers' compensation, medical and legal sessions. The safety sessions were developed by 185 private- and public-sector volunteers who participate on program committees for 32 industries. The workers' compensation topics were developed and delivered by 20 of BWC's subject matter experts.

The most popular safety topics were:

1. Safety inspections
2. Safety training
3. Safety teams
4. Human behavior

The most highly-attended workers' compensation topics were:

1. Workers' compensation law
2. Advanced rate making
3. Lump sum settlements

Success of the Safety Congress program is measured in several ways, including number of participants, number of exhibitors, cost and customer satisfaction. I'll touch on each of these, beginning with participants.

Participants

The Safety Congress experienced an 11% decrease in **attendance** over last year (4750 vs. 5381 in 2010). We hope to improve attendance next year with increased marketing efforts.

Exhibitors

Exhibitor involvement and revenue was strong. Participants visited **216 displays** of industrial equipment, safety gear and workers' compensation services from the United States and Canada.

The number of exhibiting companies and the revenue collected from booth sales increased by 3% each (216 vs. 210; \$205,700 vs. \$198,975).

Revenue

Advertising in print and website materials also provides revenue for this program. Advertising sales increased by 15% over last year (\$7190 vs. \$6260). When combined with booth sales, total revenue for the event was the **highest in history** at nearly \$213,000 (\$4285 more than 2010).

Expenses

At the same time, we were very mindful of the **costs** associated with producing the event.

Excluding personnel expenses, such as my salary and that of a college intern, total **expenditures** for the event was \$206,419 (\$195,819 in 2010). Therefore, sales revenue exceeded expenses by approximately \$6,000.

Customer Satisfaction

Which leads us to customer satisfaction. When asked about their overall satisfaction with Safety Congress,

1. 97% (88% in 2010) of **participants** were satisfied
2. 89% indicated they will implement what they learned
3. More than 50% obtained skills for safety initiatives and identified ways to control risks
4. Only 3% (5% in 2010) were dissatisfied and cited too many sessions offered at the same time (20 concurrent sessions) and too-few advanced-level sessions were offered.

A post-event survey of **exhibitors** showed that 86% (88% in 2010) were satisfied with the event, and 9% (5% in 2010) were dissatisfied. Sources of dissatisfaction were related to not obtaining the desired number of contacts or sales leads and limited access to the loading dock when the expo closed.

Using information and feedback collected from both participants and exhibitors, plans are now underway for the 2012 Ohio Safety Congress & Expo. The event is tentatively scheduled **March 27th to 29th** at the Greater Columbus Convention Center. Our goal for 2012 is to increase attendance and exhibitor participation by 5% each, and reach or maintain a customer satisfaction rating of 90% or more.

The development of **educational sessions** will begin in August when our volunteer program committees meet to determine topics and presenters for the safety-related sessions. BWC's internal subject matter experts will again develop the workers' compensation, medical and legal offerings. Topics will continue to focus on workplace safety, accident and injury prevention and workers' compensation. All sessions will provide continuing education credit for a variety of professions.

We will more aggressively market these sessions and all benefits of the Safety Congress to potential participants and exhibitors beginning this September. We will also build upon the first year of social media presence by integrating Twitter into every phase of the marketing campaign.

Registration for the 2012 Ohio Safety Congress will begin in January.

I would like to express my appreciation to the volunteers who helped present the 2011 Safety Congress & Expo and we look forward to working with many of those volunteers again for the 2012 event.

Chairman Hummel, members of the committee, do you have any questions?

12 - Month Medical Services & Safety Calendar

	May 2011	Notes
5/26/11	1. Formulary Rule (2nd read)	
	2. Limitation on filing of fee bills (1 st read)	
	3. Customer Services and Safety Report	
	June 2011	
6/15/11	1. Medical & Service Provider Fee Schedule (1st read)	
	2. Lock in Pharmacy Rule (2nd read)	
	3. Limitation on filing of fee bills (2nd read)	
	4. Medical Services Report	
	July 2011	
7/28/11	1. Medical & Service Provider Fee Schedule (2nd read)	
	2. Lock in Pharmacy Rule (1st read)	
	3. Customer Services and Safety Report	
	August 2011	
8/25/11	1. Inpatient Hospital Fee Schedule (1st read)	
	2. Lock in Pharmacy Rule (2nd read)	
	3. Medical Services Report	
	September 2011	
9/29/11	1. Inpatient Hospital Fee Schedule (2nd read)	
	2. Customer Services and Safety Report	
	October 2011	
10/27/11	1. Committee Charter review (1st read)	
	2. Inpatient Hospital Fee Schedule (2nd read)	
	3. Medical Services Report	
	November 2011	
11/17/11	1. Ambulatory Surgical Center Fee Schedule Rule (1st read)	
	2. Outpatient Hospital Fee Schedule (1st read)	
	3. Committee Charter Review (2nd read)	
	4. Customer Services and Safety Report	
	December 2011	
12/14/11	1. Conform Fee Schedules with new Medicare rates	
	2. Ambulatory Surgical Center Fee Schedule Rule (2nd read)	
	3. Outpatient Hospital Fee Schedule (2nd read)	
	4. Medical Services Report	
	January 2012	
Date TBD	1. Customer Services and Safety Report	
	February 2012	
Date TBD	1. Medical Services Report	
	March 2012	
Date TBD	1. Vocational Rehab fee schedule (1st read)	
	2. Customer Services and Safety Report	
	April 2012	
Date TBD	1. Vocational Rehab fee schedule (2nd read)	
	2. Medical Services Report	