

**Rule Summary and Fiscal Analysis (Part A)****Bureau of Workers' Compensation**

Agency Name

Division

**Aniko Nagy**

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**4123-6-21**

Rule Number

**AMENDMENT**

TYPE of rule filing

Rule Title/Tag Line

**Payment for outpatient medication.****RULE SUMMARY**

1. Is the rule being filed consistent with the requirements of the RC 119.032 review? **No**

2. Are you proposing this rule as a result of recent legislation? **No**

3. Statute prescribing the procedure in accordance with the agency is required to adopt the rule: **119.03**

4. Statute(s) authorizing agency to adopt the rule: **4121.12, 4121.121, 4121.30, 4121.31, 4121.44, 4121.441, 4123.05, 4123.66**

5. Statute(s) the rule, as filed, amplifies or implements: **4121.121, 4121.44, 4121.441, 4123.66**

6. State the reason(s) for proposing (i.e., why are you filing,) this rule:

BWC proposes amending its outpatient medication rule, OAC 4123-6-21, to address prescriber best practices and safety/efficacy concerns.

7. If the rule is an AMENDMENT, then summarize the changes and the content

of the proposed rule; If the rule type is RESCISSION, NEW or NO CHANGE, then summarize the content of the rule:

BWC is proposing revisions to OAC 4123-6-21 that would:

- Restrict reimbursement by BWC of controlled substance prescriptions written by Ohio prescribers for purposes of chronic care to only those prescribers who are currently enrolled in the Ohio Automated Rx Reporting System (OARRS). This revision to our rule is in keeping with the goal of the bureau to provide appropriate medications to our injured workers in a safe and efficacious manner.
- Restrict reimbursement by BWC for topical compounded prescriptions to those preparations that meet the following criteria: contains not less than one nor more than three FDA approved medications; contains only one FDA approved drug from any specific therapeutic class of drugs; requires submission of a prior authorization request that contains a copy of the signed prescription listing all ingredients and indicates the usual and customary cost of the prescription; requires clinical documentation of improvement in pain and function for continued use past 90 days;
- Limit reimbursement by BWC for the product cost component of topical compounded prescriptions to the lesser of the usual and customary price or the AWP minus nine percent of the commonly stocked package size for each ingredient;
- Allow BWC to (within affected geographical areas) lift any restrictions on timing of prescription refills during a state of emergency declared by the governor of Ohio or the president of the United States.

8. If the rule incorporates a text or other material by reference and the agency claims the incorporation by reference is exempt from compliance with sections 121.71 to 121.74 of the Revised Code because the text or other material is **generally available** to persons who reasonably can be expected to be affected by the rule, provide an explanation of how the text or other material is generally available to those persons:

*This response left blank because filer specified online that the rule does not incorporate a text or other material by reference.*

9. If the rule incorporates a text or other material by reference, and it was **infeasible** for the agency to file the text or other material electronically, provide an explanation of why filing the text or other material electronically was infeasible:

*This response left blank because filer specified online that the rule does not*

*incorporate a text or other material by reference.*

10. If the rule is being **rescinded** and incorporates a text or other material by reference, and it was **infeasible** for the agency to file the text or other material, provide an explanation of why filing the text or other material was infeasible:

*Not Applicable.*

11. If **revising** or **refiling** this rule, identify changes made from the previously filed version of this rule; if none, please state so. If applicable, indicate each specific paragraph of the rule that has been modified:

*Not Applicable.*

12. 119.032 Rule Review Date: **11/1/2014**

(If the rule is not exempt and you answered NO to question No. 1, provide the scheduled review date. If you answered YES to No. 1, the review date for this rule is the filing date.)

NOTE: If the rule is not exempt at the time of final filing, two dates are required: the current review date plus a date not to exceed 5 years from the effective date for Amended rules or a date not to exceed 5 years from the review date for No Change rules.

### **FISCAL ANALYSIS**

13. Estimate the total amount by which *this proposed rule* would **increase/ decrease** either **revenues/ expenditures** for the agency during the current biennium (in dollars): Explain the net impact of the proposed changes to the budget of your agency/department.

This will increase revenues.

\$81,000

In 2012, the bureau reimbursed for 363 compounded prescriptions at a cost of \$162,000. Many of these prescriptions will not meet the proposed criteria and will not be covered in the future. The bureau estimates that at least ½ of the prescriptions covered in 2012 will not meet the new criteria.

14. Identify the appropriation (by line item etc.) that authorizes each expenditure necessitated by the proposed rule:

n/a

15. Provide a summary of the estimated cost of compliance with the rule to all directly affected persons. When appropriate, please include the source for your information/estimated costs, e.g. industry, CFR, internal/agency:

The adverse impact on pharmacies from the revision on coverage of compound prescriptions will be a loss of excessive charges. Prescription charge will be capped at a maximum of \$600.00 per eight ounces. The advantage for the pharmacies is that if the prescriptions meet the proposed preparation criteria, they will be approved for payment.

Under current Ohio State Medical Board guidelines, prescribers who write controlled substance prescriptions for chronic conditions must be registered with the OARRS program. The BWC rule revision simply adds an additional reason for the prescriber to comply with the Medical Board guideline.

Self-insuring employers should not experience any adverse impact. In fact, their expenditures on reimbursement for compounded topical prescriptions may decrease under Revision Three.

16. Does this rule have a fiscal effect on school districts, counties, townships, or municipal corporations? **No**

17. Does this rule deal with environmental protection or contain a component dealing with environmental protection as defined in R. C. 121.39? **No**

**S.B. 2 (129th General Assembly) Questions**

18. Has this rule been filed with the Common Sense Initiative Office pursuant to R.C. 121.82? **Yes**

19. Specific to this rule, answer the following:

A.) Does this rule require a license, permit, or any other prior authorization to engage in or operate a line of business? **Yes**

This rule requires that treating providers have to be authorized by law to prescribe medication to injured workers and these treating providers have to be enrolled with the bureau.

B.) Does this rule impose a criminal penalty, a civil penalty, or another sanction, or create a cause of action, for failure to comply with its terms? **No**

C.) Does this rule require specific expenditures or the report of information as a condition of compliance? **No**