

Rule Summary and Fiscal Analysis

Part A - General Questions

Rule Number: 4123-6-21

Rule Type: Amendment

Rule Title/Tagline: Payment for outpatient medication.

Agency Name: Bureau of Workers' Compensation

Division:

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I. Rule Summary

1. **Is this a five year rule review?** No
 - A. **What is the rule's five year review date?** 8/1/2025
2. **Is this rule the result of recent legislation?** No
3. **What statute is this rule being promulgated under?** 119.03
4. **What statute(s) grant rule writing authority?** 4121.12, 4121.121, 4121.30, 4121.31,4121.44, 4121.441, 4123.05, 4123.66
5. **What statute(s) does the rule implement or amplify?** 4121.12, 4121.121, 4121.44, 4121.441, 4123.66
6. **Does the rule implement a federal law or rule in a manner that is more stringent or burdensome than the federal law or regulation requires?** No
 - A. **If so, what is the citation to the federal law or rule?** Not Applicable
7. **What are the reasons for proposing the rule?**

The rule is being amended to update references to Ohio state board of pharmacy rules, change the product cost component to average wholesale price (AWP) minus a percentage and change the dispensing fee component for medications, including

compounds, to a flat rate determined by BWC, subject to annual review, and apply the changes in pricing logic for ingredient cost to injured workers who request a brand name drug when a generic equivalent exists. BWC is also recommending that the above changes be incorporated into the corresponding provisions of self-insuring employer outpatient medication rule OAC 4123-6-21.1 where applicable.

- 8. Summarize the rule's content, and if this is an amended rule, also summarize the rule's changes.**

This rule governs reimbursement for outpatient medication by BWC in State Insurance Fund claims.

- 9. Does the rule incorporate material by reference? Yes**
- 10. If the rule incorporates material by reference and the agency claims the material is exempt pursuant to R.C. 121.75, please explain the basis for the exemption and how an individual can find the referenced material.**

FDA publication: "Approved Drug Products With Therapeutic Equivalence Evaluations" in effect on the billed date(s) of service. BWC Provider Billing and Reimbursement Manual, in effect on the billed date(s) of service.

- 11. If revising or re-filing the rule, please indicate the changes made in the revised or re-filed version of the rule.**

Not Applicable

II. Fiscal Analysis

- 12. Please estimate the increase / decrease in the agency's revenues or expenditures in the current biennium due to this rule.**

This will have no impact on revenues or expenditures.

\$0.00

No fiscal effects expected on current or future budgets.

- 13. What are the estimated costs of compliance for all persons and/or organizations directly affected by the rule?**

All medical and pharmacy services providers are directly affected by this rule and the estimated cost of compliance is the time for reviewing or receiving education on the changes, as well as applying any modifications to relevant systems.

14. **Does the rule increase local government costs? (If yes, you must complete an RSFA Part B). No**
15. **Does the rule regulate environmental protection? (If yes, you must complete an RSFA Part C). No**
16. **If the rule imposes a regulation fee, explain how the fee directly relates to your agency's cost in regulating the individual or business.**

Not Applicable

III. Common Sense Initiative (CSI) Questions

17. **Was this rule filed with the Common Sense Initiative Office? Yes**
18. **Does this rule have an adverse impact on business? Yes**
 - A. **Does this rule require a license, permit, or any other prior authorization to engage in or operate a line of business? Yes**
 - 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? Yes**

Medication may only be prescribed by a treating provider that is authorized by law to prescribe medication.

The pharmacy provider must include prescriber information with the bills submitted electronically for payment, including the prescriber's NPI and DEA number, the pharmacy provider must submit for billing the national drug code of the stock bottle from which the dispensed medication is obtained.

- D. **Is it likely that the rule will directly reduce the revenue or increase the expenses of the lines of business of which it will apply or applies? Yes**

The potential impact on each individual pharmacy may increase or decrease depending on the number of workers' compensation patients, prescription volume, the mix of dispensed brand and generic medications, and the maximum allowable cost list of BWC's contracted pharmacy benefits manager under OAC 4123-6-21(I).

IV. Regulatory Restriction Requirements under S.B. 9. Note: This section only applies to agencies described in R.C. 121.95(A).

19. Are you adding a new or removing an existing regulatory restriction as defined in R.C. 121.95? Yes

A. How many new regulatory restrictions do you propose adding to this rule? 0

B. How many existing regulatory restrictions do you propose removing from this rule? 2

4123-6-21(G)(3)

The dispensing fee component for non-sterile compounded prescriptions shall be eighteen dollars and seventy-five cents.

4123-6-21(G)(4)

The dispensing fee component for sterile compounded prescriptions shall be thirty-seven dollars and fifty cents.

C. If you are not removing existing regulatory restrictions from this rule, please list the rule number(s) from which you are removing restrictions.

D. Please justify the adoption of the new regulatory restriction(s).

Not Applicable