

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

Agency Name

Division

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4123-6-21

Rule Number

NEW

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:

This rule replaces the prior rule 4123-6-21 for five year rule review pursuant to R.C. Section 119.032.

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:

The amendments to the Health Partnership Program pharmacy rule 4123-6-21 of the Administrative Code are designed to provide BWC with the authority and flexibility to address the spiraling cost of prescription drugs while continuing to provide injured workers with access to appropriate and necessary medication. The rule changes include the following:

The proposed changes to the HPP pharmacy rule:

- (1) Provide that BWC may deny a therapeutic class of drugs as not being reasonably related to or medically necessary for treatment of the allowed conditions in a claim;
- (2) Provide that drugs covered are limited to those that are approved for use in the US by the Food and Drug Administration and that are dispensed by a registered pharmacist from an enrolled pharmacy provider;
- (3) Allow BWC to require prior authorization of certain drugs or therapeutic classes of drugs, and require BWC to publish a list of all such drugs or therapeutic classes of drugs for which prior authorization is required;
- (4) Contain a list of drugs/types of drugs which may be allowed and reimbursed by an MCO as part of a comprehensive treatment plan submitted by the POR or treating provider; these drugs shall not be reimbursed by BWC's pharmacy benefits management vendor.
- (5) With regard to dispensing fees, provide that the dispensing fee shall be a flat rate fee subject to annual review by BWC; that only pharmacy providers are eligible to receive a dispensing fee; that the dispensing fee may include an additional incentive component for pharmacy providers that accept assignment; and that, with certain enumerated exceptions, dispensing fees shall be limited to one dispensing fee per patient per generic code number (GCN) per rolling twenty-five days;
- (6) Provide that drugs may be dispensed in unit dose packaging, but the NDC number of the closest comparable bulk package listed in the bureau or vendor payment system must be used for billing purposes.
- (7) Provide that, for generic drugs, BWC may choose to utilize the maximum allowable cost list of a vendor or develop its own maximum allowable cost list;
- (8) Provide that injured workers are responsible for the difference in cost between the brand name drug and the maximum allowable cost of the available generic drug in all cases;
- (9) Allow BWC to publish a list of drugs identifying those drugs that are considered chronic medications, and specify that drugs not identified as chronic medications shall be considered acute medications;

- (10) Allow BWC to publish supply limitations for acute and chronic drugs which represent the maximum number of days supply that may be dispensed at any one time for a single prescription;
- (11) Allow BWC to publish maximum prescription quantities which represent the largest number of units per drug that may be dispensed at any one time for a single prescription;
- (12) Provide that requests that exceed any published days supply limit or maximum quantity limit shall be denied, but that denials may be overridden by BWC in cases where medical necessity and appropriateness have been determined;
- (13) Provide that, with certain enumerated exceptions, refills requested before seventy-five per cent of any published days supply limit has been utilized will be denied, except in cases where the dosage of a noncontrolled drug has been increased and has a new prescription number;
- (14) Provide that, in order to receive a pharmacy provider designation and provider number, a provider must have the ability to, and agree to, submit bills at the point of service;
- (15) Eliminate provisions dealing with medications dispensed to injured workers during inpatient or outpatient hospital visits, which will be addressed in BWC's provider billing and reimbursement manual;
- (16) Require BWC to secure the services of a pharmacist to assist in the review of drug bills, and allow BWC to consult with a pharmacy and therapeutics committee, which shall be a subcommittee of the stakeholders health care quality assurance advisory committee established by rule 4123-6-22 of the Administrative Code, on the development of a drug formulary and other issues regarding medications; and
- (17) Require BWC to publish line by line billing instructions in a provider billing and reimbursement manual, and to provide at least thirty days written notice prior to required changes in billing procedures.

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:

Not Applicable.

12. 119.032 Rule Review Date:

(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 have no impact on revenues or expenditures.

0.00

N/A

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:

N/A

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**