

NOTICE OF PUBLIC HEARING

The Ohio Bureau of Workers' Compensation (BWC) will hold a public hearing on Tuesday, November 19, 2002, at 1:30 p.m., Training Room G, 3rd Floor, 30 West Spring Street, Columbus, Ohio 43215, to consider the following:

(1) **Amendment** of the following rules of the BWC for the purpose as shown below:

4123-6-05.1 Employer access to the HPP-employer enrollment period established.

Clarifies that, when soliciting employers during open enrollment, MCO must comply with provisions of the MCO "firewall" rule (4123-6-03.9) and MCO contract, as well as the "anti-kickback" rule (4123-6-05.3).

4123-6-16 Dispute resolution for HPP medical issues.

- 1) Allows MCOs/BWC to dismiss without prejudice appeals which do not contain minimum information or which have been reversed upon consideration of additional evidence/ resolved to the party's satisfaction;
- 2) Allows MCOs to pend requests for treatment when previous request for the same/similar treatment is under appeal;
- 3) Gives MCOs 30 days rather than 21 to complete their level of ADR if the MCO utilizes an IME rather than a paper file review;
- 4) Specifies an ADR appeal to BWC level must be in writing;
- 5) Provides that BWC ADR orders may include a determination that claimant be scheduled for an IME, not extending BWC's 14-day timeframe for issuing order; and
- 6) Requires MCO to refer dispute to BWC within 7 days if MCO refers dispute to BWC for order because the requested treatment is for non-allowed condition and no allowance issue is pending.

4123-6-20 Obligation for submitting reports.

Clarifies scope of medical documentation providers are obligated to provide to BWC, claimant, employer, or their representatives, MCO, QHP, or SI employer upon written request and within 5 business days, to include all medical, psychological, or psychiatric documentations relating causally or historically to physical or mental injuries relevant to the claim required by BWC, MCO, QHP, or SI employer, and necessary for the claimant to obtain medical services, benefits, or compensation.

4123-6-21 Payment for medication.

4123-7-23: Payment for medication.

Allows medication to be prescribed by the physician of record/treating physician, as well as any other treating provider authorized by law to prescribe such medication, recognizing that advanced practice nurses/other non-physician provider types have been granted limited prescriptive authority and/or may be granted such authority in the future.

(2) **Adoption** of the following rules of the BWC for the purpose as shown below:

4123-6-20.1 Charges for copies of medical records.

Medical providers may not assess a fee or charge BWC, IC, MCO, or SI employer for costs of providing medical records or completing any BWC form or documentation required by BWC, MCO, QHP, or SI employer and necessary for the claimant to obtain medical services, benefits/compensation. Exceptions: 1) where provider has filed copies of medical records with BWC or MCO and BWC has provided access to such records electronically, the provider may charge a fee for copies if party subsequently requests the same records from the provider; and 2) where a provider has filed record copies with the SI employer, the provider may charge a fee for copies if a party subsequently requests the same records from the provider. The provider's fee shall be based upon the actual cost of furnishing copies, not to exceed \$.25/page. BWC would be required to provide authorized parties electronic access to filed medical records without charge, and, where BWC has provided access to medical records electronically, BWC may charge a fee for copies, if a party requests copies of such records from BWC. A claimant would be required to promptly provide a current signed release of medical information, records, and reports necessary for the administration of the claim when requested by the employer. The employer shall immediately provide copies of all medical information, records, and reports to the bureau and to the claimant or the claimant's representative upon request.

The full and complete text of the proposed rules is available at the Register of Ohio (<http://www.registerofohio.state.oh.us>) and is on file in the office of the Secretary of State (180 East Broad Street, 15th Floor, Columbus, Ohio), the Legislative Service Commission (77 South High Street, 9th Floor, Columbus, Ohio), the office of the Joint Committee on Agency Rule Review (77 South High Street, Concourse Level, Columbus, Ohio), the Bureau of Workers' Compensation, Legal Operations (30 West Spring Street, 26th Floor, Columbus, Ohio), the Bureau of Workers' Compensation (30 West Spring Street, Columbus, Ohio, 1st Floor, Hearing Rooms), and all service offices of the Bureau.

All interested parties will be given an opportunity to be heard. Any interested party unable to attend the public hearing may submit written comments to the undersigned prior to the public hearing.

THE OHIO BUREAU OF WORKERS' COMPENSATION

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