

The Ohio Bureau of Workers' Compensation has a New Rule for the Payment of Medical Treatment for Concussion Related Injuries

By **Corey Kleinhenz**

On January 1, 2020, a new Ohio Administrative Code Rule became effective with respect to payment for treatment of concussion related injuries. Ohio Administrative Code 4123-6-34 now governs the payment of medical services for concussion related workplace injuries. Before the enactment of Ohio Administrative Code Rule 4123-6-34, there was no specific prior rule pertaining to the authorization for medical treatment of concussion injuries.

Why did the BWC create the new rule?

The BWC proposed this new rule to facilitate the provision and payment of medically necessary and appropriate services for the treatment of work-related concussion injuries, to avoid prolonged disability.

Summary of the new rule

In brief, the new rule allows for payment of medical treatment for symptoms related to the concussion for up to six months from the date of injury when there is a documented mechanism of injury consistent with a concussion and documented clinical manifestations consistent with a concussion within six weeks from the date of injury.

Authorization for payment of medical treatment beyond six months from the date of injury will require additional conditions be allowed in the claim.

What specific language is included in the new rule?

The new rule defines a “concussion” as a type of traumatic brain injury induced by external force, which might include a bump or blow to the head, or a jolt or hit to the body, which causes the brain to bounce around or twist in the skull, causing chemical changes in the brain and sometimes stretching and damaging brain cells.

The new rule acknowledges the variability in clinical manifestations of concussion related injuries but also attempts to create a reliable standard of documentation by medical providers in order to obtain payment for the treatment of work-related concussion injuries.

The new rule provides for payment of medical treatment relating to eight specific clinical domains:

1. Anxiety and mood: including ruminating thoughts, difficulty concentrating, hypervigilance or fastidiousness;
2. Vestibular: including impaired balance and equilibrium, dizziness, nausea, or environmental sensitivity
3. Ocular: including impaired vision and visual tracking, impaired comprehension, trouble focusing, or distractibility;
4. Sleep: including trouble falling asleep or sleeping more or less than usual;

5. Cervical: including neck pain, stiffness, or reduced range of motion;
6. Cognitive fatigue: including impaired thinking abilities, feeling slow or one step behind, physical and mental fatigue, general headache, or sleep disturbance;
7. Headache: including variable and intermittent severe headache, nausea, photosensitivity, or vestibular migraine;
8. Cognitive impairment: including impairment in attention, memory, executive function, language processing, or visual perception and process.

Medical treatment reimbursement requests relating to these eight specific clinical domains which are submitted within six months from the date of injury, for treatment not to exceed six months from the date of injury, may be authorized in an allowed claim, without disclaimer, when:

1. The documented mechanism of injury in the claim included a bump or blow to the head, or a jolt or hit to the body; and
2. Signs or symptoms related to the clinical domains have manifested within six weeks of the date of injury; and
3. The requested treatment is determined to be medically necessary and appropriate, and reasonably related to treatment of concussion, based on the medical evidence.

How will this new rule affect my business?

On the positive side of the coin, the timely approval and provision of medical treatment for concussion related injuries, should at least in theory, enable injured workers to either remain at work for more minor injuries, and in the case of more significant injuries, should allow injured workers to return to work more quickly after their injury than they would have been able to without the timely approval and provision of medical treatment post injury.

On the negative side of the coin, medical treatment for head related injuries which are suspect or minimal in nature and which would have likely not been approved for medical treatment related to a concussion diagnosis prior to the enactment of the new rule, will now most likely be treated with less scrutiny by the BWC and be authorized for medical treatment.

For questions or additional information, please contact one of the Roetzel attorneys listed.

Doug Spiker

Practice Group Manager,
Employment Services
216.696.7125 | dspiker@ralaw.com

Bob Blackham

216.615.4839 | rblackham@ralaw.com

Eric Bruestle

513.361.8292 | ebruestle@ralaw.com

Arthur Brumett II

216.615.4856 | abrumett@ralaw.com

Helen S. Carroll

330.849.6710 | hcarroll@ralaw.com

G. Frederick Compton, Jr.

330.849.6610 | fcompton@ralaw.com

Leighann Fink

330.849.6633 | lfink@ralaw.com

Monica Frantz216.820.4241 | mfrantz@ralaw.com**Morris Hawk**216.615.4841 | mhawk@ralaw.com**Phil Heebsh**419.708.5390 | pheebsh@ralaw.com**Deirdre Henry**216.615.4823 | dhenry@ralaw.com**Doug Kennedy**614.723.2004 | dkennedy@ralaw.com**Corey Kleinhenz**513.361.8285 | ckleinhenz@ralaw.com**Jonathan Miller**419.254.5273 | jdmler@ralaw.com**Nancy Noall**216.820.4207 | nnoall@ralaw.com**Nathan Pangrace**216.615.4825 | npangrace@ralaw.com**Brian Tarian**614.723.2028 | btarian@ralaw.com**Timothy J. Webster**216.696.7795 | twebster@ralaw.com