Bureau of Workers' Compensation

30 W. Spring St.
Columbus, OH 43215-2256

Governor **John R. Kasich**
Acting Administrator/CEO **Sarah D. Morrison**

www.bwc.ohio.gov
1-800-644-6292

November 14, 2016

Mr. Rob Brundrett
Director, Public Policy Services
The Ohio Manufacturers'' Association
33 N. High Street
Columbus, OH 43215

Re: Comments re. OAC 4123-5-18

Dear Mr. Brundrett:

This letter is to address the point presented to me in your November 11, 2016 letter regarding The Bureau's recommended changes to OAC 4123-5-18.

First, pursuant to your comments, as well as similar comments from other stakeholders we have made the following modification to the rule's language:

(E) Notwithstanding paragraph (A) of this rule:

*(1) During the first six weeks after the date of injury, **medical reports on form MEDCO-14 or equivalent completed and signed by a physician, certified nurse practitioner, clinical nurse specialist, or physician assistant who has examined the claimant may be considered sufficient medical proof to support payment or non-payment of disability** for no more than six weeks of disability.*

Explanation:

<u>Change #1</u>

To address employers concern that the original phrase "[f]or an initial period of temporary disability up to but not exceeding six weeks..." did not clearly enough define what constituted an "initial period" we have modified the recommended language to state: "During the first six weeks after the date of injury...."

This change limits the time when medical information solely from a certified nurse practitioner, clinical nurse specialist, or physician assistant can be considered sufficient for temporary total compensation purposes to only the first six weeks after the date of injury.

<u>Change #2</u>

Additionally, to provide further clarity regarding how long temporary total disability payments can be supported with only medical from a certified nurse practitioner, clinical nurse specialist, or physician assistant, the phrase "for no more than six weeks of disability...."

Change number 2, limits the time for which the initial medical can be used to only six weeks.

Besides the above, you also presented a recommendation focused on another aspect of the rule as set forth in Paragraph (E)(2). The proposed language in Paragraph (E)(2) indicates that

after six weeks, medical information submitted by a certified nurse practitioner, clinical nurse specialist, or physician assistant who has examined the injured worker would be considered sufficient for subsequent periods of temporary disability, if such medical is co-signed by a physician. Specifically, you indicated that if the intent is that a physician actually "sees" the patient to make a determination with respect to the individual's extent of disability, then your suggestion would be that the rule be revised to reflect this intention. You further indicated that you were mindful that no bureaucratic process should ever impede prompt, appropriate medical care, and appropriate benefits.

The proposed language is a reflection of current practice. Currently, the law has been interpreted that so long as a physician reviews the results of a medical examination, and attest to the agreement of the examination finding by affixing their signature to the medical used for temporary total benefit purposes, such medical is considered sufficient. We believe that the intent to have an appropriate level medical expertise involved in the care and evaluation of an injured worker is important to a quality outcome. While certified nurse practitioners, clinical nurse specialist, and physician assistance will continue to evaluate and treat our injured workers, they are still not allowed to be physicians of records (PORs), or disability evaluator providers.

We very much appreciate your submitted comments. If I have not addressed the points presented in your letter, please do not hesitate to contact me by phone or email.

Sincerely,

Freddie Johnson, MPA, JD
Chief Medical Services and Compliance Officer
614-644-7687 (office phone)
614-725-7559 (cell phone)
Freddie.J.1@bwc.state.oh.us

Cc: Kim Kline