

As Reported by the House Insurance Committee

133rd General Assembly

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Sub. H. B. No. 81

Representative Perales

**Cosponsors: Representatives Miller, A., O'Brien, Riedel, Romanchuk, Scherer,
Seitz, Weinstein**

A BILL

To amend sections 4113.21, 4123.026, 4123.52, 1
4123.56, 4123.58, 4123.65, and 4123.66 and to 2
enact section 4121.471 of the Revised Code 3
regarding employee medical examinations and 4
changes to the Worker's Compensation Law. 5

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 4113.21, 4123.026, 4123.52, 6
4123.56, 4123.58, 4123.65, and 4123.66 be amended and section 7
4121.471 of the Revised Code be enacted to read as follows: 8

Sec. 4113.21. (A) No private employer shall require any 9
prospective employee or applicant for employment to pay the cost 10
of a medical examination required by the employer as a condition 11
of employment. 12

(B) No public employer or private employer furnishing 13
services to a public employer in accordance with a contract 14
subject to the "Service Contract Act of 1965," 41 U.S.C. 6701 et 15
seq., shall require any employee, prospective employee, or 16
applicant for employment to pay the cost of a-an initial or any 17

subsequent medical examination examinations required by the 18
public employer or private employer as a condition of employment 19
or continued employment. 20

(C) As used in this section: 21

(1) "Private employer" means any individual, partnership, 22
trust, estate, joint-stock company, insurance company, common 23
carrier, public utility, or corporation, whether domestic or 24
foreign, or the receiver, trustee in bankruptcy, trustee, or the 25
successor thereof, who has in employment three or more 26
individuals at any one time within a calendar year. 27

(2) "Public employer" means the United States, the state, 28
any political subdivision of the state, and any agency of the 29
United States, the state, or a political subdivision of the 30
state. 31

(3) "Employee" means any person who may be permitted, 32
required, or directed by any employer in consideration of direct 33
or indirect gain or profit, to engage in any employment. 34

(D) Any employer who violates this section shall forfeit 35
not more than one hundred dollars for each violation. The bureau 36
of workers' compensation and the public utilities commission 37
shall enforce this section. 38

Sec. 4121.471. A claim for an additional award under 39
Section 35 of Article II, Ohio Constitution, alleging that an 40
injury, occupational disease, or death resulted from an 41
employer's failure to comply with a specific safety rule for the 42
protection of the lives, health, and safety of employees shall 43
be forever barred unless it is filed within one year after the 44
date of the injury or death or within one year after the 45
disability due to the occupational disease began. 46

Sec. 4123.026. (A) The administrator of workers' 47
compensation, ~~or~~a self-insuring public employer for the peace 48
officers, firefighters, and emergency medical workers employed 49
by or volunteering for that self-insuring public employer, or a 50
detention facility that is a self-insuring employer for the 51
facility's employees, including corrections officers, shall pay 52
the costs of conducting post-exposure medical diagnostic 53
services, consistent with the standards of medical care existing 54
at the time of the exposure, to investigate whether an injury or 55
occupational disease was sustained by a peace officer, 56
firefighter, ~~or~~emergency medical worker, or detention facility 57
employee, including a corrections officer, when coming into 58
contact with the blood or other body fluid of another person in 59
the course of and arising out of the peace officer's, 60
firefighter's, ~~or~~emergency medical worker's, or detention 61
facility employee's employment, or when responding to an 62
inherently dangerous situation in the manner described in, and 63
in accordance with the conditions specified under, division (A) 64
(1) (a) of section 4123.01 of the Revised Code, through any of 65
the following means: 66

(1) Splash or spatter in the eye or mouth, including when 67
received in the course of conducting mouth-to-mouth 68
resuscitation; 69

(2) A puncture in the skin; 70

(3) A cut in the skin or another opening in the skin such 71
as an open sore, wound, lesion, abrasion, or ulcer. 72

(B) As used in this section: 73

(1) "Peace officer" has the same meaning as in section 74
2935.01 of the Revised Code. 75

(2) "Firefighter" means a firefighter, whether paid or volunteer, of a lawfully constituted fire department. 76
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(3) "Emergency medical worker" means a first responder, emergency medical technician-basic, emergency medical technician-intermediate, or emergency medical technician-paramedic, certified under Chapter 4765. of the Revised Code, whether paid or volunteer. 78
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(4) "Corrections officer" means a person employed by a detention facility as a corrections officer. 83
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(5) "Detention facility" means any public or private place used for the confinement of a person charged with or convicted of any crime in this state or another state or under the laws of the United States or alleged or found to be a delinquent child or unruly child in this state or another state or under the laws of the United States . 85
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Sec. 4123.52. (A) The jurisdiction of the industrial commission and the authority of the administrator of workers' compensation over each case is continuing, and the commission may make such modification or change with respect to former findings or orders with respect thereto, as, in its opinion is justified. No modification or change nor any finding or award in respect of any claim shall be made with respect to disability, compensation, dependency, or benefits, after five years from the date of injury in the absence of ~~the payment of~~ medical benefits being provided under this chapter or in the absence of payment of compensation under section 4123.57, 4123.58, or division (A) or (B) of section 4123.56 of the Revised Code or wages in lieu of compensation in a manner so as to satisfy the requirements of section 4123.84 of the Revised Code, in which event the modification, change, finding, or award shall be made within 91
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five years from the date of the last medical services being 106
rendered or the date of the last payment of compensation or from 107
the date of death, nor unless written notice of claim for the 108
specific part or parts of the body injured or disabled has been 109
given as provided in section 4123.84 or 4123.85 of the Revised 110
Code. The commission shall not make any modification, change, 111
finding, or award which shall award compensation for a back 112
period in excess of two years prior to the date of filing 113
application therefor. 114

(B) Notwithstanding division (A) of this section, and 115
except as otherwise provided in a rule that shall be adopted by 116
the administrator, with the advice and consent of the bureau of 117
workers' compensation board of directors, neither the 118
administrator nor the commission shall make any finding or award 119
for payment of medical or vocational rehabilitation services 120
submitted for payment more than one year after the date the 121
services were rendered or more than one year after the date the 122
services became payable under division (I) of section 4123.511 123
of the Revised Code, whichever is later. No medical or 124
vocational rehabilitation provider shall bill a claimant for 125
services rendered if the administrator or commission is 126
prohibited from making that payment under this division. 127

(C) Division (B) of this section does not apply to 128
requests made by the centers for medicare and medicaid services 129
in the United States department of health and human services for 130
reimbursement of conditional payments made pursuant to section 131
1395y(b) (2) of title 42, United States Code (commonly known as 132
the "Medicare Secondary Payer Act"). 133

(D) This section does not affect the right of a claimant 134
to compensation accruing subsequent to the filing of any such 135

application, provided the application is filed within the time 136
limit provided in this section. 137

(E) This section does not deprive the commission of its 138
continuing jurisdiction to determine the questions raised by any 139
application for modification of award which has been filed with 140
the commission after June 1, 1932, and prior to the expiration 141
of the applicable period but in respect to which no award has 142
been granted or denied during the applicable period. 143

(F) The commission may, by general rules, provide for the 144
destruction of files of cases in which no further action may be 145
taken. 146

(G) The commission and administrator of workers' 147
compensation each may, by general rules, provide for the 148
retention and destruction of all other records in their 149
possession or under their control pursuant to section 121.211 150
and sections 149.34 to 149.36 of the Revised Code. The bureau of 151
workers' compensation may purchase or rent required equipment 152
for the document retention media, as determined necessary to 153
preserve the records. Photographs, microphotographs, microfilm, 154
films, or other direct document retention media, when properly 155
identified, have the same effect as the original record and may 156
be offered in like manner and may be received as evidence in 157
proceedings before the industrial commission, staff hearing 158
officers, and district hearing officers, and in any court where 159
the original record could have been introduced. 160

Sec. 4123.56. (A) Except as provided in division (D) of 161
this section, in the case of temporary disability, an employee 162
shall receive sixty-six and two-thirds per cent of the 163
employee's average weekly wage so long as such disability is 164
total, not to exceed a maximum amount of weekly compensation 165

which is equal to the statewide average weekly wage as defined 166
in division (C) of section 4123.62 of the Revised Code, and not 167
less than a minimum amount of compensation which is equal to 168
thirty-three and one-third per cent of the statewide average 169
weekly wage as defined in division (C) of section 4123.62 of the 170
Revised Code unless the employee's wage is less than thirty- 171
three and one-third per cent of the minimum statewide average 172
weekly wage, in which event the employee shall receive 173
compensation equal to the employee's full wages; provided that 174
for the first twelve weeks of total disability the employee 175
shall receive seventy-two per cent of the employee's full weekly 176
wage, but not to exceed a maximum amount of weekly compensation 177
which is equal to the lesser of the statewide average weekly 178
wage as defined in division (C) of section 4123.62 of the 179
Revised Code or one hundred per cent of the employee's net take- 180
home weekly wage. In the case of a self-insuring employer, 181
payments shall be for a duration based upon the medical reports 182
of the attending physician. If the employer disputes the 183
attending physician's report, payments may be terminated only 184
upon application and hearing by a district hearing officer 185
pursuant to division (C) of section 4123.511 of the Revised 186
Code. Payments shall continue pending the determination of the 187
matter, however payment shall not be made for the period when 188
any employee has returned to work, when an employee's treating 189
physician has made a written statement that the employee is 190
capable of returning to the employee's former position of 191
employment, when work within the physical capabilities of the 192
employee is made available by the employer or another employer, 193
or when the employee has reached the maximum medical 194
improvement. Where the employee is capable of work activity, but 195
the employee's employer is unable to offer the employee any 196
employment, the employee shall register with the director of job 197

and family services, who shall assist the employee in finding 198
suitable employment. The termination of temporary total 199
disability, whether by order or otherwise, does not preclude the 200
commencement of temporary total disability at another point in 201
time if the employee again becomes temporarily totally disabled. 202

After two hundred weeks of temporary total disability 203
benefits, the medical section of the bureau of workers' 204
compensation shall schedule the claimant for an examination for 205
an evaluation to determine whether or not the temporary 206
disability has become permanent. A self-insuring employer shall 207
notify the bureau immediately after payment of two hundred weeks 208
of temporary total disability and request that the bureau 209
schedule the claimant for such an examination. 210

When the employee is awarded compensation for temporary 211
total disability for a period for which the employee has 212
received benefits under Chapter 4141. of the Revised Code, the 213
bureau shall pay an amount equal to the amount received from the 214
award to the director of job and family services and the 215
director shall credit the amount to the accounts of the 216
employers to whose accounts the payment of benefits was charged 217
or is chargeable to the extent it was charged or is chargeable. 218

If any compensation under this section has been paid for 219
the same period or periods for which temporary nonoccupational 220
accident and sickness insurance is or has been paid pursuant to 221
an insurance policy or program to which the employer has made 222
the entire contribution or payment for providing insurance or 223
under a nonoccupational accident and sickness program fully 224
funded by the employer, except as otherwise provided in this 225
division compensation paid under this section for the period or 226
periods shall be paid only to the extent by which the payment or 227

payments exceeds the amount of the nonoccupational insurance or 228
program paid or payable. Offset of the compensation shall be 229
made only upon the prior order of the bureau or industrial 230
commission or agreement of the claimant. If an employer provides 231
supplemental sick leave benefits in addition to temporary total 232
disability compensation paid under this section, and if the 233
employer and an employee agree in writing to the payment of the 234
supplemental sick leave benefits, temporary total disability 235
benefits may be paid without an offset for those supplemental 236
sick leave benefits. 237

As used in this division, "net take-home weekly wage" 238
means the amount obtained by dividing an employee's total 239
remuneration, as defined in section 4141.01 of the Revised Code, 240
paid to or earned by the employee during the first four of the 241
last five completed calendar quarters which immediately precede 242
the first day of the employee's entitlement to benefits under 243
this division, by the number of weeks during which the employee 244
was paid or earned remuneration during those four quarters, less 245
the amount of local, state, and federal income taxes deducted 246
for each such week. 247

(B) (1) If an employee in a claim allowed under this 248
chapter suffers a wage loss as a result of returning to 249
employment other than the employee's former position of 250
employment due to an injury or occupational disease, the 251
employee shall receive compensation at sixty-six and two-thirds 252
per cent of the difference between the employee's average weekly 253
wage and the employee's present earnings not to exceed the 254
statewide average weekly wage. The payments may continue for up 255
to a maximum of two hundred weeks, but the payments shall be 256
reduced by the corresponding number of weeks in which the 257
employee receives payments pursuant to division (A) (2) of 258

section 4121.67 of the Revised Code.	259
(2) If an employee in a claim allowed under this chapter	260
suffers a wage loss as a result of being unable to find	261
employment consistent with the employee's disability resulting	262
from the employee's injury or occupational disease, the employee	263
shall receive compensation at sixty-six and two-thirds per cent	264
of the difference between the employee's average weekly wage and	265
the employee's present earnings, not to exceed the statewide	266
average weekly wage. The payments may continue for up to a	267
maximum of fifty-two weeks. The first twenty-six weeks of	268
payments under division (B) (2) of this section shall be in	269
addition to the maximum of two hundred weeks of payments allowed	270
under division (B) (1) of this section. If an employee in a claim	271
allowed under this chapter receives compensation under division	272
(B) (2) of this section in excess of twenty-six weeks, the number	273
of weeks of compensation allowable under division (B) (1) of this	274
section shall be reduced by the corresponding number of weeks in	275
excess of twenty-six, and up to fifty-two, that is allowable	276
under division (B) (1) of this section.	277
(3) The number of weeks of wage loss payable to an	278
employee under divisions (B) (1) and (2) of this section shall	279
not exceed two hundred and twenty-six weeks in the aggregate.	280
(C) In the event an employee of a professional sports	281
franchise domiciled in this state is disabled as the result of	282
an injury or occupational disease, the total amount of payments	283
made under a contract of hire or collective bargaining agreement	284
to the employee during a period of disability is deemed an	285
advanced payment of compensation payable under sections 4123.56	286
to 4123.58 of the Revised Code. The employer shall be reimbursed	287
the total amount of the advanced payments out of any award of	288

compensation made pursuant to sections 4123.56 to 4123.58 of the Revised Code. 289
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(D) If an employee receives temporary total disability benefits pursuant to division (A) of this section and social security retirement benefits pursuant to the "Social Security Act," the weekly benefit amount under division (A) of this section shall not exceed sixty-six and two-thirds per cent of the statewide average weekly wage as defined in division (C) of section 4123.62 of the Revised Code. 291
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(E) If an employee is eligible for compensation under division (A) of this section, but the employee's full weekly wage has not been determined at the time payments are to commence under division (H) of section 4123.511 of the Revised Code, the employee shall receive thirty-three and one-third per cent of the statewide average weekly wage as defined in division (C) of section 4123.62 of the Revised Code. On determination of the employee's full weekly wage, the compensation an employee receives shall be adjusted pursuant to division (A) of this section. 298
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If the amount of compensation an employee receives under this division is greater than the adjusted amount the employee receives under division (A) of this section that is based on the employee's full weekly wage, the excess amount shall be recovered in the manner provided in division (K) of section 4123.511 of the Revised Code. If the amount of compensation an employee receives under this division is less than the adjusted amount the employee receives under that division that is based on the employee's full weekly wage, the employee shall receive the difference between those two amounts. 308
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(F) If an employee is unable to work or suffers a wage 318

loss as the direct result of an impairment arising from an 319
injury or occupational disease, the employee is entitled to 320
receive compensation under this section, provided the employee 321
is otherwise qualified. If an employee is not working or has 322
suffered a wage loss as the direct result of reasons unrelated 323
to the allowed injury or occupational disease, the employee is 324
not eligible to receive compensation under this section. It is 325
the intent of the general assembly to supersede any previous 326
judicial decision that applied the doctrine of voluntary 327
abandonment to a claim brought under this section. 328

Sec. 4123.58. (A) In cases of permanent total disability, 329
the employee shall receive an award to continue until the 330
employee's death in the amount of sixty-six and two-thirds per 331
cent of the employee's average weekly wage, but, except as 332
otherwise provided in division (B) of this section, not more 333
than a maximum amount of weekly compensation which is equal to 334
sixty-six and two-thirds per cent of the statewide average 335
weekly wage as defined in division (C) of section 4123.62 of the 336
Revised Code in effect on the date of injury or on the date the 337
disability due to the occupational disease begins, nor not less 338
than a minimum amount of weekly compensation which is equal to 339
fifty per cent of the statewide average weekly wage as defined 340
in division (C) of section 4123.62 of the Revised Code in effect 341
on the date of injury or on the date the disability due to the 342
occupational disease begins, unless the employee's average 343
weekly wage is less than fifty per cent of the statewide average 344
weekly wage at the time of the injury, in which event the 345
employee shall receive compensation in an amount equal to the 346
employee's average weekly wage. 347

(B) In the event the weekly workers' compensation amount 348
when combined with disability benefits received pursuant to the 349

Social Security Act is less than the statewide average weekly 350
wage as defined in division (C) of section 4123.62 of the 351
Revised Code, then the maximum amount of weekly compensation 352
shall be the statewide average weekly wage as defined in 353
division (C) of section 4123.62 of the Revised Code. At any time 354
that social security disability benefits terminate or are 355
reduced, the workers' compensation award shall be recomputed to 356
pay the maximum amount permitted under this division. 357

(C) Permanent total disability shall be compensated 358
according to this section only when at least one of the 359
following applies to the claimant: 360

(1) The claimant has lost, or lost the use of both hands 361
or both arms, or both feet or both legs, or both eyes, or of any 362
two thereof; however, the loss or loss of use of one limb does 363
not constitute the loss or loss of use of two body parts; 364

(2) The impairment resulting from the employee's injury or 365
occupational disease prevents the employee from engaging in 366
sustained remunerative employment utilizing the employment 367
skills that the employee has or may reasonably be expected to 368
develop. 369

(D) Permanent total disability shall not be compensated 370
when the reason the employee is unable to engage in sustained 371
remunerative employment is due to any of the following reasons, 372
whether individually or in combination: 373

(1) Impairments of the employee that are not the result of 374
an allowed injury or occupational disease; 375

(2) Solely the employee's age or aging; 376

(3) The employee retired or otherwise ~~voluntarily~~ 377
~~abandoned the workforce~~ is not working for reasons unrelated to 378

the allowed injury or occupational disease. 379

(4) The employee has not engaged in educational or 380
rehabilitative efforts to enhance the employee's employability, 381
unless such efforts are determined to be in vain. 382

(E) Compensation payable under this section for permanent 383
total disability is in addition to benefits payable under 384
division (B) of section 4123.57 of the Revised Code. 385

(F) If an employee is awarded compensation for permanent 386
total disability under this section because the employee 387
sustained a traumatic brain injury, the employee is entitled to 388
that compensation regardless of the employee's employment in a 389
sheltered workshop subsequent to the award, on the condition 390
that the employee does not receive income, compensation, or 391
remuneration from that employment in excess of two thousand 392
dollars in any calendar quarter. As used in this division, 393
"sheltered workshop" means a state agency or nonprofit 394
organization established to carry out a program of 395
rehabilitation for handicapped individuals or to provide these 396
individuals with remunerative employment or other occupational 397
rehabilitating activity. 398

Sec. 4123.65. (A) A state fund employer or the employee of 399
such an employer may file an application with the administrator 400
of workers' compensation for approval of a final settlement of a 401
claim under this chapter. The application shall include the 402
settlement agreement, and except as otherwise specified in this 403
division, be signed by the claimant and employer, and clearly 404
set forth the circumstances by reason of which the proposed 405
settlement is deemed desirable and that the parties agree to the 406
terms of the settlement agreement. A claimant may file an 407
application without an employer's signature in the following 408

situations:	409
(1) The employer is no longer doing business in Ohio;	410
(2) The claim no longer is in the employer's industrial accident or occupational disease experience as provided in division (B) of section 4123.34 of the Revised Code and the claimant no longer is employed with that employer;	411 412 413 414
(3) The employer has failed to comply with section 4123.35 of the Revised Code.	415 416
If a claimant files an application without an employer's signature, and the employer still is doing business in this state, the administrator shall send written notice of the application to the employer immediately upon receipt of the application. If the employer fails to respond to the notice within thirty days after the notice is sent, the application need not contain the employer's signature.	417 418 419 420 421 422 423
If a state fund employer or an employee of such an employer has not filed an application for a final settlement under this division, the administrator may file an application on behalf of the employer or the employee, provided that the administrator gives notice of the filing to the employer and the employee and to the representative of record of the employer and of the employee immediately upon the filing. An application filed by the administrator shall contain all of the information and signatures required of an employer or an employee who files an application under this division. Every self-insuring employer that enters into a final settlement agreement with an employee shall mail, within seven days of executing the agreement, a copy of the agreement to the administrator and the employee's representative. The administrator shall place the agreement into	424 425 426 427 428 429 430 431 432 433 434 435 436 437

the claimant's file. 438

(B) Except as provided in divisions (C) and (D) of this 439
section, a settlement agreed to under this section is binding 440
upon all parties thereto and as to items, injuries, and 441
occupational diseases to which the settlement applies. 442

(C) No settlement agreed to under division (A) of this 443
section or agreed to by a self-insuring employer and the self- 444
insuring employer's employee shall take effect until thirty days 445
after the administrator approves the settlement for state fund 446
employees and employers, or after the self-insuring employer and 447
employee sign the final settlement agreement. ~~During~~ Except as 448
provided in division (G) of this section, during the thirty-day 449
period, the employer, employee, or administrator, for state fund 450
settlements, and the employer or employee, for self-insuring 451
settlements, may withdraw consent to the settlement by an 452
employer providing written notice to the employer's employee and 453
the administrator or by an employee providing written notice to 454
the employee's employer and the administrator, or by the 455
administrator providing written notice to the state fund 456
employer and employee. If an employee dies during the thirty-day 457
waiting period following the approval of a settlement, the 458
settlement can be voided by any party for good cause shown. 459

(D) At the time of agreement to any final settlement 460
agreement under division (A) of this section or agreement 461
between a self-insuring employer and the self-insuring 462
employer's employee, the administrator, for state fund 463
settlements, and the self-insuring employer, for self-insuring 464
settlements, immediately shall send a copy of the agreement to 465
the industrial commission who shall assign the matter to a staff 466
hearing officer. The staff hearing officer shall determine, 467

within the time limitations specified in division (C) of this 468
section, whether the settlement agreement is or is not a gross 469
miscarriage of justice. If the staff hearing officer determines 470
within that time period that the settlement agreement is clearly 471
unfair, the staff hearing officer shall issue an order 472
disapproving the settlement agreement. If the staff hearing 473
officer determines that the settlement agreement is not clearly 474
unfair or fails to act within those time limits, the settlement 475
agreement is approved. 476

(E) A settlement entered into under this section may 477
pertain to one or more claims of a claimant, or one or more 478
parts of a claim, or the compensation or benefits pertaining to 479
either, or any combination thereof, provided that nothing in 480
this section shall be interpreted to require a claimant to enter 481
into a settlement agreement for every claim that has been filed 482
with the bureau of workers' compensation by that claimant under 483
Chapter 4121., 4123., 4127., or 4131. of the Revised Code. 484

(F) A settlement entered into under this section is not 485
appealable under section 4123.511 or 4123.512 of the Revised 486
Code. 487

(G) Notwithstanding any provision of the Revised Code to 488
the contrary, an employer shall not deny or withdraw consent to 489
a settlement application filed under this section if both of the 490
following apply to the claim that is the subject of the 491
application: 492

(1) The claim is no longer within the date of impact 493
pursuant to the employer's industrial accident or occupational 494
disease experience as provided in division (B) of section 495
4123.34 of the Revised Code; 496

(2) The employee named in the claim is no longer employed 497
by the employer. 498

Sec. 4123.66. (A) In addition to the compensation provided 499
for in this chapter, the administrator of workers' compensation 500
shall disburse and pay from the state insurance fund the amounts 501
for medical, nurse, and hospital services and medicine as the 502
administrator deems proper and, in case death ensues from the 503
injury or occupational disease, the administrator shall disburse 504
and pay from the fund reasonable funeral expenses in an amount 505
not to exceed ~~fifty-five~~ seventy thousand five hundred dollars. 506
The bureau of workers' compensation shall reimburse anyone, 507
whether dependent, volunteer, or otherwise, who pays the funeral 508
expenses of any employee whose death ensues from any injury or 509
occupational disease as provided in this section. The 510
administrator may adopt rules, with the advice and consent of 511
the bureau of workers' compensation board of directors, with 512
respect to furnishing medical, nurse, and hospital service and 513
medicine to injured or disabled employees entitled thereto, and 514
for the payment therefor. In case an injury or industrial 515
accident that injures an employee also causes damage to the 516
employee's eyeglasses, artificial teeth or other denture, or 517
hearing aid, or in the event an injury or occupational disease 518
makes it necessary or advisable to replace, repair, or adjust 519
the same, the bureau shall disburse and pay a reasonable amount 520
to repair or replace the same. 521

(B) The administrator, in the rules the administrator 522
adopts pursuant to division (A) of this section, may adopt rules 523
specifying the circumstances under which the bureau may make 524
immediate payment for the first fill of prescription drugs for 525
medical conditions identified in an application for compensation 526
or benefits under section 4123.84 or 4123.85 of the Revised Code 527

that occurs prior to the date the administrator issues an 528
initial determination order under division (B) of section 529
4123.511 of the Revised Code. If the claim is ultimately 530
disallowed in a final administrative or judicial order, and if 531
the employer is a state fund employer who pays assessments into 532
the surplus fund account created under section 4123.34 of the 533
Revised Code, the payments for medical services made pursuant to 534
this division for the first fill of prescription drugs shall be 535
charged to and paid from the surplus fund account and not 536
charged through the state insurance fund to the employer against 537
whom the claim was filed. 538

(C) (1) If an employer or a welfare plan has provided to or 539
on behalf of an employee any benefits or compensation for an 540
injury or occupational disease and that injury or occupational 541
disease is determined compensable under this chapter, the 542
employer or a welfare plan may request that the administrator 543
reimburse the employer or welfare plan for the amount the 544
employer or welfare plan paid to or on behalf of the employee in 545
compensation or benefits. The administrator shall reimburse the 546
employer or welfare plan for the compensation and benefits paid 547
if, at the time the employer or welfare plan provides the 548
benefits or compensation to or on behalf of employee, the injury 549
or occupational disease had not been determined to be 550
compensable under this chapter and if the employee was not 551
receiving compensation or benefits under this chapter for that 552
injury or occupational disease. The administrator shall 553
reimburse the employer or welfare plan in the amount that the 554
administrator would have paid to or on behalf of the employee 555
under this chapter if the injury or occupational disease 556
originally would have been determined compensable under this 557
chapter. If the employer is a merit-rated employer, the 558

administrator shall adjust the amount of premium next due from 559
the employer according to the amount the administrator pays the 560
employer. The administrator shall adopt rules, in accordance 561
with Chapter 119. of the Revised Code, to implement this 562
division. 563

(2) As used in this division, "welfare plan" has the same 564
meaning as in division (1) of 29 U.S.C.A. 1002. 565

(D)(1) Subject to the requirements of division (D)(2) of 566
this section, the administrator may make a payment of up to five 567
hundred dollars to either of the following: 568

(a) The centers of medicare and medicaid services, for 569
reimbursement of conditional payments made pursuant to the 570
"Medicare Secondary Payer Act," 42 U.S.C. 1395y; 571

(b) The Ohio department of medicaid, or a medical 572
assistance provider to whom the department has assigned a right 573
of recovery for a claim for which the department has notified 574
the provider that the department intends to recoup the 575
department's prior payment for the claim, for reimbursement 576
under sections 5160.35 to 5160.43 of the Revised Code for the 577
cost of medical assistance paid on behalf of a medical 578
assistance recipient. 579

(2) The administrator may make a payment under division 580
(D)(1) of this section if the administrator makes a reasonable 581
determination that both of the following apply: 582

(a) The payment is for reimbursement of benefits for an 583
injury or occupational disease. 584

(b) The injury or occupational disease is compensable, or 585
is likely to be compensable, under this chapter or Chapter 586
4121., 4127., or 4131. of the Revised Code. 587

(3) Any payment made pursuant to this division shall be 588
charged to and paid from the surplus fund account created under 589
section 4123.34 of the Revised Code. 590

(4) Nothing in this division shall be construed as 591
limiting the centers of medicare and medicaid services, the 592
department, or any other entity with a lawful right to 593
reimbursement from recovering sums greater than five hundred 594
dollars. 595

(5) The administrator may adopt rules, with the advice and 596
consent of the bureau of workers' compensation board of 597
directors, to implement this division. 598

Section 2. That existing sections 4113.21, 4123.026, 599
4123.52, 4123.56, 4123.58, 4123.65, and 4123.66 of the Revised 600
Code are hereby repealed. 601

Section 3. The amendments made to sections 4123.56 and 602
4123.58 of the Revised Code by this act apply to claims pending 603
on or arising after the effective date of this section. The 604
amendments made to sections 4123.52, 4123.65, and 4123.66 of the 605
Revised Code by this act apply to claims arising on or after the 606
effective date of this section. 607

Section 4121.471 of the Revised Code, as enacted by this 608
act, applies to claims arising on or after the effective date of 609
this section. 610

Section 4. Division (A) of Section 4123.512 of the Revised 611
Code, as amended by H.B. 27 of the 132nd General Assembly, 612
applies to claims under Chapter 4121., 4123., 4127., or 4131. of 613
the Revised Code pending on or arising after September 29, 2017. 614