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Representative Perales

Cosponsors: Representatives Miller, A., O'Brien, Riedel, Romanchuk, Scherer, Seitz, Weinstein, Abrams, Baldrige, Blair, Boggs, Brent, Brown, Callender, Carruthers, Cera, Clites, Crawley, Cross, Crossman, Dean, Edwards, Fraizer, Ghanbari, Ginter, Green, Grendell, Hambley, Hillyer, Hoops, Ingram, Jones, Keller, Kelly, Kick, Lanese, Lang, LaRe, Leland, Lepore-Hagan, Liston, Manning, D., Manning, G., McClain, Miller, J., Miranda, Oelslager, Patterson, Plummer, Roemer, Rogers, Russo, Smith, K., Smith, T., Sobeki, Stephens, Stoltzfus, Strahorn, Sweeney, West, Wiggam

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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 as an open sore, wound, lesion, abrasion, or ulcer.	71 72
(B) <u>The administrator, a self-insuring public employer, or a detention facility that is a self-insuring employer shall pay the costs of conducting post-exposure medical diagnostic services to investigate whether an employee described in division (A) of this section sustained an injury or occupational disease if both of the following apply:</u>	73 74 75 76 77 78
(1) <u>In the course of employment the employee is exposed to a drug or other chemical substance.</u>	79 80
(2) <u>The post-exposure medical diagnostic service is consistent with the standards of medical care existing at the time of exposure.</u>	81 82 83
(C) As used in this section:	84
(1) "Peace officer" has the same meaning as in section 2935.01 of the Revised Code.	85 86
(2) "Firefighter" means a firefighter, whether paid or volunteer, of a lawfully constituted fire department.	87 88
(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.	89 90 91 92 93
(4) <u>"Corrections officer" means a person employed by a detention facility as a corrections officer.</u>	94 95
(5) <u>"Detention facility" means any public or private place</u>	96

used for the confinement of a person charged with or convicted 97
of any crime in this state or another state or under the laws of 98
the United States or alleged or found to be a delinquent child 99
or unruly child in this state or another state or under the laws 100
of the United States . 101

Sec. 4123.52. (A) The jurisdiction of the industrial 102
commission and the authority of the administrator of workers' 103
compensation over each case is continuing, and the commission 104
may make such modification or change with respect to former 105
findings or orders with respect thereto, as, in its opinion is 106
justified. No modification or change nor any finding or award in 107
respect of any claim shall be made with respect to disability, 108
compensation, dependency, or benefits, after five years from the 109
date of injury in the absence of ~~the payment of~~ medical benefits 110
being provided under this chapter or in the absence of payment 111
of compensation under section 4123.57, 4123.58, or division (A) 112
or (B) of section 4123.56 of the Revised Code or wages in lieu 113
of compensation in a manner so as to satisfy the requirements of 114
section 4123.84 of the Revised Code, in which event the 115
modification, change, finding, or award shall be made within 116
five years from the date of the last medical services being 117
rendered or the date of the last payment of compensation or from 118
the date of death, nor unless written notice of claim for the 119
specific part or parts of the body injured or disabled has been 120
given as provided in section 4123.84 or 4123.85 of the Revised 121
Code. The commission shall not make any modification, change, 122
finding, or award which shall award compensation for a back 123
period in excess of two years prior to the date of filing 124
application therefor. 125

(B) Notwithstanding division (A) of this section, and 126
except as otherwise provided in a rule that shall be adopted by 127

the administrator, with the advice and consent of the bureau of 128
workers' compensation board of directors, neither the 129
administrator nor the commission shall make any finding or award 130
for payment of medical or vocational rehabilitation services 131
submitted for payment more than one year after the date the 132
services were rendered or more than one year after the date the 133
services became payable under division (I) of section 4123.511 134
of the Revised Code, whichever is later. No medical or 135
vocational rehabilitation provider shall bill a claimant for 136
services rendered if the administrator or commission is 137
prohibited from making that payment under this division. 138

(C) Division (B) of this section does not apply to 139
requests made by the centers for medicare and medicaid services 140
in the United States department of health and human services for 141
reimbursement of conditional payments made pursuant to section 142
1395y(b)(2) of title 42, United States Code (commonly known as 143
the "Medicare Secondary Payer Act"). 144

(D) This section does not affect the right of a claimant 145
to compensation accruing subsequent to the filing of any such 146
application, provided the application is filed within the time 147
limit provided in this section. 148

(E) This section does not deprive the commission of its 149
continuing jurisdiction to determine the questions raised by any 150
application for modification of award which has been filed with 151
the commission after June 1, 1932, and prior to the expiration 152
of the applicable period but in respect to which no award has 153
been granted or denied during the applicable period. 154

(F) The commission may, by general rules, provide for the 155
destruction of files of cases in which no further action may be 156
taken. 157

(G) The commission and administrator of workers' 158
compensation each may, by general rules, provide for the 159
retention and destruction of all other records in their 160
possession or under their control pursuant to section 121.211 161
and sections 149.34 to 149.36 of the Revised Code. The bureau of 162
workers' compensation may purchase or rent required equipment 163
for the document retention media, as determined necessary to 164
preserve the records. Photographs, microphotographs, microfilm, 165
films, or other direct document retention media, when properly 166
identified, have the same effect as the original record and may 167
be offered in like manner and may be received as evidence in 168
proceedings before the industrial commission, staff hearing 169
officers, and district hearing officers, and in any court where 170
the original record could have been introduced. 171

Sec. 4123.56. (A) Except as provided in division (D) of 172
this section, in the case of temporary disability, an employee 173
shall receive sixty-six and two-thirds per cent of the 174
employee's average weekly wage so long as such disability is 175
total, not to exceed a maximum amount of weekly compensation 176
which is equal to the statewide average weekly wage as defined 177
in division (C) of section 4123.62 of the Revised Code, and not 178
less than a minimum amount of compensation which is equal to 179
thirty-three and one-third per cent of the statewide average 180
weekly wage as defined in division (C) of section 4123.62 of the 181
Revised Code unless the employee's wage is less than thirty- 182
three and one-third per cent of the minimum statewide average 183
weekly wage, in which event the employee shall receive 184
compensation equal to the employee's full wages; provided that 185
for the first twelve weeks of total disability the employee 186
shall receive seventy-two per cent of the employee's full weekly 187
wage, but not to exceed a maximum amount of weekly compensation 188

which is equal to the lesser of the statewide average weekly 189
wage as defined in division (C) of section 4123.62 of the 190
Revised Code or one hundred per cent of the employee's net take- 191
home weekly wage. In the case of a self-insuring employer, 192
payments shall be for a duration based upon the medical reports 193
of the attending physician. If the employer disputes the 194
attending physician's report, payments may be terminated only 195
upon application and hearing by a district hearing officer 196
pursuant to division (C) of section 4123.511 of the Revised 197
Code. Payments shall continue pending the determination of the 198
matter, however payment shall not be made for the period when 199
any employee has returned to work, when an employee's treating 200
physician has made a written statement that the employee is 201
capable of returning to the employee's former position of 202
employment, when work within the physical capabilities of the 203
employee is made available by the employer or another employer, 204
or when the employee has reached the maximum medical 205
improvement. Where the employee is capable of work activity, but 206
the employee's employer is unable to offer the employee any 207
employment, the employee shall register with the director of job 208
and family services, who shall assist the employee in finding 209
suitable employment. The termination of temporary total 210
disability, whether by order or otherwise, does not preclude the 211
commencement of temporary total disability at another point in 212
time if the employee again becomes temporarily totally disabled. 213

After two hundred weeks of temporary total disability 214
benefits, the medical section of the bureau of workers' 215
compensation shall schedule the claimant for an examination for 216
an evaluation to determine whether or not the temporary 217
disability has become permanent. A self-insuring employer shall 218
notify the bureau immediately after payment of two hundred weeks 219

of temporary total disability and request that the bureau 220
schedule the claimant for such an examination. 221

When the employee is awarded compensation for temporary 222
total disability for a period for which the employee has 223
received benefits under Chapter 4141. of the Revised Code, the 224
bureau shall pay an amount equal to the amount received from the 225
award to the director of job and family services and the 226
director shall credit the amount to the accounts of the 227
employers to whose accounts the payment of benefits was charged 228
or is chargeable to the extent it was charged or is chargeable. 229

If any compensation under this section has been paid for 230
the same period or periods for which temporary nonoccupational 231
accident and sickness insurance is or has been paid pursuant to 232
an insurance policy or program to which the employer has made 233
the entire contribution or payment for providing insurance or 234
under a nonoccupational accident and sickness program fully 235
funded by the employer, except as otherwise provided in this 236
division compensation paid under this section for the period or 237
periods shall be paid only to the extent by which the payment or 238
payments exceeds the amount of the nonoccupational insurance or 239
program paid or payable. Offset of the compensation shall be 240
made only upon the prior order of the bureau or industrial 241
commission or agreement of the claimant. If an employer provides 242
supplemental sick leave benefits in addition to temporary total 243
disability compensation paid under this section, and if the 244
employer and an employee agree in writing to the payment of the 245
supplemental sick leave benefits, temporary total disability 246
benefits may be paid without an offset for those supplemental 247
sick leave benefits. 248

As used in this division, "net take-home weekly wage" 249

means the amount obtained by dividing an employee's total 250
remuneration, as defined in section 4141.01 of the Revised Code, 251
paid to or earned by the employee during the first four of the 252
last five completed calendar quarters which immediately precede 253
the first day of the employee's entitlement to benefits under 254
this division, by the number of weeks during which the employee 255
was paid or earned remuneration during those four quarters, less 256
the amount of local, state, and federal income taxes deducted 257
for each such week. 258

(B) (1) If an employee in a claim allowed under this 259
chapter suffers a wage loss as a result of returning to 260
employment other than the employee's former position of 261
employment due to an injury or occupational disease, the 262
employee shall receive compensation at sixty-six and two-thirds 263
per cent of the difference between the employee's average weekly 264
wage and the employee's present earnings not to exceed the 265
statewide average weekly wage. The payments may continue for up 266
to a maximum of two hundred weeks, but the payments shall be 267
reduced by the corresponding number of weeks in which the 268
employee receives payments pursuant to division (A) (2) of 269
section 4121.67 of the Revised Code. 270

(2) If an employee in a claim allowed under this chapter 271
suffers a wage loss as a result of being unable to find 272
employment consistent with the employee's disability resulting 273
from the employee's injury or occupational disease, the employee 274
shall receive compensation at sixty-six and two-thirds per cent 275
of the difference between the employee's average weekly wage and 276
the employee's present earnings, not to exceed the statewide 277
average weekly wage. The payments may continue for up to a 278
maximum of fifty-two weeks. The first twenty-six weeks of 279
payments under division (B) (2) of this section shall be in 280

addition to the maximum of two hundred weeks of payments allowed 281
under division (B) (1) of this section. If an employee in a claim 282
allowed under this chapter receives compensation under division 283
(B) (2) of this section in excess of twenty-six weeks, the number 284
of weeks of compensation allowable under division (B) (1) of this 285
section shall be reduced by the corresponding number of weeks in 286
excess of twenty-six, and up to fifty-two, that is allowable 287
under division (B) (1) of this section. 288

(3) The number of weeks of wage loss payable to an 289
employee under divisions (B) (1) and (2) of this section shall 290
not exceed two hundred and twenty-six weeks in the aggregate. 291

(C) In the event an employee of a professional sports 292
franchise domiciled in this state is disabled as the result of 293
an injury or occupational disease, the total amount of payments 294
made under a contract of hire or collective bargaining agreement 295
to the employee during a period of disability is deemed an 296
advanced payment of compensation payable under sections 4123.56 297
to 4123.58 of the Revised Code. The employer shall be reimbursed 298
the total amount of the advanced payments out of any award of 299
compensation made pursuant to sections 4123.56 to 4123.58 of the 300
Revised Code. 301

(D) If an employee receives temporary total disability 302
benefits pursuant to division (A) of this section and social 303
security retirement benefits pursuant to the "Social Security 304
Act," the weekly benefit amount under division (A) of this 305
section shall not exceed sixty-six and two-thirds per cent of 306
the statewide average weekly wage as defined in division (C) of 307
section 4123.62 of the Revised Code. 308

(E) If an employee is eligible for compensation under 309
division (A) of this section, but the employee's full weekly 310

wage has not been determined at the time payments are to 311
commence under division (H) of section 4123.511 of the Revised 312
Code, the employee shall receive thirty-three and one-third per 313
cent of the statewide average weekly wage as defined in division 314
(C) of section 4123.62 of the Revised Code. On determination of 315
the employee's full weekly wage, the compensation an employee 316
receives shall be adjusted pursuant to division (A) of this 317
section. 318

If the amount of compensation an employee receives under 319
this division is greater than the adjusted amount the employee 320
receives under division (A) of this section that is based on the 321
employee's full weekly wage, the excess amount shall be 322
recovered in the manner provided in division (K) of section 323
4123.511 of the Revised Code. If the amount of compensation an 324
employee receives under this division is less than the adjusted 325
amount the employee receives under that division that is based 326
on the employee's full weekly wage, the employee shall receive 327
the difference between those two amounts. 328

(F) If an employee is unable to work or suffers a wage 329
loss as the direct result of an impairment arising from an 330
injury or occupational disease, the employee is entitled to 331
receive compensation under this section, provided the employee 332
is otherwise qualified. If an employee is not working or has 333
suffered a wage loss as the direct result of reasons unrelated 334
to the allowed injury or occupational disease, the employee is 335
not eligible to receive compensation under this section. It is 336
the intent of the general assembly to supersede any previous 337
judicial decision that applied the doctrine of voluntary 338
abandonment to a claim brought under this section. 339

Sec. 4123.58. (A) In cases of permanent total disability, 340

the employee shall receive an award to continue until the 341
employee's death in the amount of sixty-six and two-thirds per 342
cent of the employee's average weekly wage, but, except as 343
otherwise provided in division (B) of this section, not more 344
than a maximum amount of weekly compensation which is equal to 345
sixty-six and two-thirds per cent of the statewide average 346
weekly wage as defined in division (C) of section 4123.62 of the 347
Revised Code in effect on the date of injury or on the date the 348
disability due to the occupational disease begins, nor not less 349
than a minimum amount of weekly compensation which is equal to 350
fifty per cent of the statewide average weekly wage as defined 351
in division (C) of section 4123.62 of the Revised Code in effect 352
on the date of injury or on the date the disability due to the 353
occupational disease begins, unless the employee's average 354
weekly wage is less than fifty per cent of the statewide average 355
weekly wage at the time of the injury, in which event the 356
employee shall receive compensation in an amount equal to the 357
employee's average weekly wage. 358

(B) In the event the weekly workers' compensation amount 359
when combined with disability benefits received pursuant to the 360
Social Security Act is less than the statewide average weekly 361
wage as defined in division (C) of section 4123.62 of the 362
Revised Code, then the maximum amount of weekly compensation 363
shall be the statewide average weekly wage as defined in 364
division (C) of section 4123.62 of the Revised Code. At any time 365
that social security disability benefits terminate or are 366
reduced, the workers' compensation award shall be recomputed to 367
pay the maximum amount permitted under this division. 368

(C) Permanent total disability shall be compensated 369
according to this section only when at least one of the 370
following applies to the claimant: 371

(1) The claimant has lost, or lost the use of both hands 372
or both arms, or both feet or both legs, or both eyes, or of any 373
two thereof; however, the loss or loss of use of one limb does 374
not constitute the loss or loss of use of two body parts; 375

(2) The impairment resulting from the employee's injury or 376
occupational disease prevents the employee from engaging in 377
sustained remunerative employment utilizing the employment 378
skills that the employee has or may reasonably be expected to 379
develop. 380

(D) Permanent total disability shall not be compensated 381
when the reason the employee is unable to engage in sustained 382
remunerative employment is due to any of the following reasons, 383
whether individually or in combination: 384

(1) Impairments of the employee that are not the result of 385
an allowed injury or occupational disease; 386

(2) Solely the employee's age or aging; 387

(3) The employee retired or otherwise ~~voluntarily~~ 388
~~abandoned the workforce is not working~~ for reasons unrelated to 389
the allowed injury or occupational disease. 390

(4) The employee has not engaged in educational or 391
rehabilitative efforts to enhance the employee's employability, 392
unless such efforts are determined to be in vain. 393

(E) Compensation payable under this section for permanent 394
total disability is in addition to benefits payable under 395
division (B) of section 4123.57 of the Revised Code. 396

(F) If an employee is awarded compensation for permanent 397
total disability under this section because the employee 398
sustained a traumatic brain injury, the employee is entitled to 399

that compensation regardless of the employee's employment in a 400
sheltered workshop subsequent to the award, on the condition 401
that the employee does not receive income, compensation, or 402
remuneration from that employment in excess of two thousand 403
dollars in any calendar quarter. As used in this division, 404
"sheltered workshop" means a state agency or nonprofit 405
organization established to carry out a program of 406
rehabilitation for handicapped individuals or to provide these 407
individuals with remunerative employment or other occupational 408
rehabilitating activity. 409

Sec. 4123.65. (A) A state fund employer or the employee of 410
such an employer may file an application with the administrator 411
of workers' compensation for approval of a final settlement of a 412
claim under this chapter. The application shall include the 413
settlement agreement, and except as otherwise specified in this 414
division, be signed by the claimant and employer, and clearly 415
set forth the circumstances by reason of which the proposed 416
settlement is deemed desirable and that the parties agree to the 417
terms of the settlement agreement. A claimant may file an 418
application without an employer's signature in the following 419
situations: 420

(1) The employer is no longer doing business in Ohio; 421

(2) The claim no longer is in the employer's industrial 422
accident or occupational disease experience as provided in 423
division (B) of section 4123.34 of the Revised Code and the 424
claimant no longer is employed with that employer; 425

(3) The employer has failed to comply with section 4123.35 426
of the Revised Code. 427

If a claimant files an application without an employer's 428

signature, and the employer still is doing business in this 429
state, the administrator shall send written notice of the 430
application to the employer immediately upon receipt of the 431
application. If the employer fails to respond to the notice 432
within thirty days after the notice is sent, the application 433
need not contain the employer's signature. 434

If a state fund employer or an employee of such an 435
employer has not filed an application for a final settlement 436
under this division, the administrator may file an application 437
on behalf of the employer or the employee, provided that the 438
administrator gives notice of the filing to the employer and the 439
employee and to the representative of record of the employer and 440
of the employee immediately upon the filing. An application 441
filed by the administrator shall contain all of the information 442
and signatures required of an employer or an employee who files 443
an application under this division. Every self-insuring employer 444
that enters into a final settlement agreement with an employee 445
shall mail, within seven days of executing the agreement, a copy 446
of the agreement to the administrator and the employee's 447
representative. The administrator shall place the agreement into 448
the claimant's file. 449

(B) Except as provided in divisions (C) and (D) of this 450
section, a settlement agreed to under this section is binding 451
upon all parties thereto and as to items, injuries, and 452
occupational diseases to which the settlement applies. 453

(C) No settlement agreed to under division (A) of this 454
section or agreed to by a self-insuring employer and the self- 455
insuring employer's employee shall take effect until thirty days 456
after the administrator approves the settlement for state fund 457
employees and employers, or after the self-insuring employer and 458

employee sign the final settlement agreement. ~~During~~ Except as 459
provided in division (G) of this section, during the thirty-day 460
period, the employer, employee, or administrator, for state fund 461
settlements, and the employer or employee, for self-insuring 462
settlements, may withdraw consent to the settlement by an 463
employer providing written notice to the employer's employee and 464
the administrator or by an employee providing written notice to 465
the employee's employer and the administrator, or by the 466
administrator providing written notice to the state fund 467
employer and employee. If an employee dies during the thirty-day 468
waiting period following the approval of a settlement, the 469
settlement can be voided by any party for good cause shown. 470

(D) At the time of agreement to any final settlement 471
agreement under division (A) of this section or agreement 472
between a self-insuring employer and the self-insuring 473
employer's employee, the administrator, for state fund 474
settlements, and the self-insuring employer, for self-insuring 475
settlements, immediately shall send a copy of the agreement to 476
the industrial commission who shall assign the matter to a staff 477
hearing officer. The staff hearing officer shall determine, 478
within the time limitations specified in division (C) of this 479
section, whether the settlement agreement is or is not a gross 480
miscarriage of justice. If the staff hearing officer determines 481
within that time period that the settlement agreement is clearly 482
unfair, the staff hearing officer shall issue an order 483
disapproving the settlement agreement. If the staff hearing 484
officer determines that the settlement agreement is not clearly 485
unfair or fails to act within those time limits, the settlement 486
agreement is approved. 487

(E) A settlement entered into under this section may 488
pertain to one or more claims of a claimant, or one or more 489

parts of a claim, or the compensation or benefits pertaining to 490
either, or any combination thereof, provided that nothing in 491
this section shall be interpreted to require a claimant to enter 492
into a settlement agreement for every claim that has been filed 493
with the bureau of workers' compensation by that claimant under 494
Chapter 4121., 4123., 4127., or 4131. of the Revised Code. 495

(F) A settlement entered into under this section is not 496
appealable under section 4123.511 or 4123.512 of the Revised 497
Code. 498

(G) Notwithstanding any provision of the Revised Code to 499
the contrary, an employer shall not deny or withdraw consent to 500
a settlement application filed under this section if both of the 501
following apply to the claim that is the subject of the 502
application: 503

(1) The claim is no longer within the date of impact 504
pursuant to the employer's industrial accident or occupational 505
disease experience as provided in division (B) of section 506
4123.34 of the Revised Code; 507

(2) The employee named in the claim is no longer employed 508
by the employer. 509

Sec. 4123.66. (A) In addition to the compensation provided 510
for in this chapter, the administrator of workers' compensation 511
shall disburse and pay from the state insurance fund the amounts 512
for medical, nurse, and hospital services and medicine as the 513
administrator deems proper and, in case death ensues from the 514
injury or occupational disease, the administrator shall disburse 515
and pay from the fund reasonable funeral expenses in an amount 516
not to exceed ~~fifty-five~~ seven thousand five hundred dollars. 517
The bureau of workers' compensation shall reimburse anyone, 518

whether dependent, volunteer, or otherwise, who pays the funeral 519
expenses of any employee whose death ensues from any injury or 520
occupational disease as provided in this section. The 521
administrator may adopt rules, with the advice and consent of 522
the bureau of workers' compensation board of directors, with 523
respect to furnishing medical, nurse, and hospital service and 524
medicine to injured or disabled employees entitled thereto, and 525
for the payment therefor. In case an injury or industrial 526
accident that injures an employee also causes damage to the 527
employee's eyeglasses, artificial teeth or other denture, or 528
hearing aid, or in the event an injury or occupational disease 529
makes it necessary or advisable to replace, repair, or adjust 530
the same, the bureau shall disburse and pay a reasonable amount 531
to repair or replace the same. 532

(B) The administrator, in the rules the administrator 533
adopts pursuant to division (A) of this section, may adopt rules 534
specifying the circumstances under which the bureau may make 535
immediate payment for the first fill of prescription drugs for 536
medical conditions identified in an application for compensation 537
or benefits under section 4123.84 or 4123.85 of the Revised Code 538
that occurs prior to the date the administrator issues an 539
initial determination order under division (B) of section 540
4123.511 of the Revised Code. If the claim is ultimately 541
disallowed in a final administrative or judicial order, and if 542
the employer is a state fund employer who pays assessments into 543
the surplus fund account created under section 4123.34 of the 544
Revised Code, the payments for medical services made pursuant to 545
this division for the first fill of prescription drugs shall be 546
charged to and paid from the surplus fund account and not 547
charged through the state insurance fund to the employer against 548
whom the claim was filed. 549

(C) (1) If an employer or a welfare plan has provided to or 550
on behalf of an employee any benefits or compensation for an 551
injury or occupational disease and that injury or occupational 552
disease is determined compensable under this chapter, the 553
employer or a welfare plan may request that the administrator 554
reimburse the employer or welfare plan for the amount the 555
employer or welfare plan paid to or on behalf of the employee in 556
compensation or benefits. The administrator shall reimburse the 557
employer or welfare plan for the compensation and benefits paid 558
if, at the time the employer or welfare plan provides the 559
benefits or compensation to or on behalf of employee, the injury 560
or occupational disease had not been determined to be 561
compensable under this chapter and if the employee was not 562
receiving compensation or benefits under this chapter for that 563
injury or occupational disease. The administrator shall 564
reimburse the employer or welfare plan in the amount that the 565
administrator would have paid to or on behalf of the employee 566
under this chapter if the injury or occupational disease 567
originally would have been determined compensable under this 568
chapter. If the employer is a merit-rated employer, the 569
administrator shall adjust the amount of premium next due from 570
the employer according to the amount the administrator pays the 571
employer. The administrator shall adopt rules, in accordance 572
with Chapter 119. of the Revised Code, to implement this 573
division. 574

(2) As used in this division, "welfare plan" has the same 575
meaning as in division (1) of 29 U.S.C.A. 1002. 576

(D) (1) Subject to the requirements of division (D) (2) of 577
this section, the administrator may make a payment of up to five 578
hundred dollars to either of the following: 579

(a) The centers of medicare and medicaid services, for 580
reimbursement of conditional payments made pursuant to the 581
"Medicare Secondary Payer Act," 42 U.S.C. 1395y; 582

(b) The Ohio department of medicaid, or a medical 583
assistance provider to whom the department has assigned a right 584
of recovery for a claim for which the department has notified 585
the provider that the department intends to recoup the 586
department's prior payment for the claim, for reimbursement 587
under sections 5160.35 to 5160.43 of the Revised Code for the 588
cost of medical assistance paid on behalf of a medical 589
assistance recipient. 590

(2) The administrator may make a payment under division 591
(D) (1) of this section if the administrator makes a reasonable 592
determination that both of the following apply: 593

(a) The payment is for reimbursement of benefits for an 594
injury or occupational disease. 595

(b) The injury or occupational disease is compensable, or 596
is likely to be compensable, under this chapter or Chapter 597
4121., 4127., or 4131. of the Revised Code. 598

(3) Any payment made pursuant to this division shall be 599
charged to and paid from the surplus fund account created under 600
section 4123.34 of the Revised Code. 601

(4) Nothing in this division shall be construed as 602
limiting the centers of medicare and medicaid services, the 603
department, or any other entity with a lawful right to 604
reimbursement from recovering sums greater than five hundred 605
dollars. 606

(5) The administrator may adopt rules, with the advice and 607
consent of the bureau of workers' compensation board of 608

directors, to implement this division. 609

Section 2. That existing sections 4113.21, 4123.026, 610
4123.52, 4123.56, 4123.58, 4123.65, and 4123.66 of the Revised 611
Code are hereby repealed. 612

Section 3. The amendments made to section 4123.52 of the 613
Revised Code by this act apply to claims arising on or after 614
July 1, 2020. The amendments made to sections 4123.56, 4123.58, 615
and 4123.65 of the Revised Code by this act apply to claims 616
pending on or arising after the effective date of this section. 617
The amendments made to section 4123.66 of the Revised Code by 618
this act apply to claims arising on or after the effective date 619
of this section. 620

Section 4121.471 of the Revised Code, as enacted by this 621
act, applies to claims arising on or after the effective date of 622
this section. 623

Section 4. Division (A) of Section 4123.512 of the Revised 624
Code, as amended by H.B. 27 of the 132nd General Assembly, 625
applies to claims under Chapter 4121., 4123., 4127., or 4131. of 626
the Revised Code pending on or arising after September 29, 2017. 627