

Medical Marijuana and its IMPACT ON BWC

What does OHIO'S medical marijuana LAW SAY?

House Bill 523, effective Sept. 8, 2016, legalizes medical marijuana in Ohio for certain medical conditions, including pain that is either chronic and severe or intractable, PTSD, and traumatic brain injuries. At this time, the only legal forms of medical marijuana will be edibles, oils, patches, plant material and tinctures. Vaporization is permitted. It cannot be smoked or combusted. Home growth is prohibited.

The Ohio Department of Commerce is tasked with regulating the licensure of medical marijuana cultivators and processors, as well as the laboratories that test medical marijuana. The state of Ohio Board of Pharmacy will license retail dispensaries and register patients and their caregivers. Additionally, the State Medical Board of Ohio will regulate physicians' requirements and procedures for applying for and maintaining certificates to recommend medical marijuana and maintain the list of conditions for which medical marijuana can be recommended.

What is the IMPACT of the new law ON BWC?

The impact of the new law on BWC and its programs is limited. It does not adversely affect the Drug-free Safety Program, will not require BWC to pay for patient access to marijuana, and expressly states that an employee under the influence of marijuana is not covered by workers' compensation.

Specifically:

- 1** Nothing in the law requires an employer to accommodate an employee's use of medical marijuana;
- 2** The law does NOT prohibit an employer from refusing to hire, discharging, or taking an adverse employment action because of a person's use of medical marijuana;
- 3** The law specifies that marijuana is covered under "rebuttable presumption." In general, this means that an employee whose injury was the result of being intoxicated or under the influence of marijuana is not eligible for workers' compensation. This is the case regardless of whether the marijuana use is recommended by a physician;
- 4** While the law does not specifically address reimbursement for medical marijuana recommended for injured workers, Ohio law already has rules and statutes in place that limit what medications are reimbursable by BWC.
 - Administrative code provides that drugs covered by BWC are limited to those that are approved by the United States Food and Drug Administration. Marijuana has not been approved by the FDA and remains a Schedule I illegal drug under federal law.
 - BWC-funded prescriptions must be dispensed by a registered pharmacist from an enrolled provider. Medical marijuana will be dispensed from retail marijuana dispensaries, not from enrolled pharmacies.
 - BWC only reimburses drugs that are on its pharmaceutical formulary, which is a complete list of medications approved for reimbursement by BWC. Drugs not on the list are not eligible for reimbursement, and under BWC's current rules, it cannot be included in the formulary, nor is it otherwise eligible for reimbursement.

What can EMPLOYERS DO?

The best way employers can protect their workers and themselves is to establish a **drug-free workplace**, or, if they already have one, to review and update it if necessary. This is important because certain sections of the new law reference the use of medical marijuana in violation of an employer's drug-free workplace policy, zero-tolerance policy or other formal program or policy regulating the use of medical marijuana. For what this means to your specific workplace, consult your human resources or legal department.