

House Committee on Commerce, Labor, and Economic Development
Testimony in Support of House Bill 2648- Rule and Regulation Process, Economic Impact Statement, Legislative Oversight
Presented by Eric Stafford, Vice President of Government Affairs, Kansas Chamber

Tuesday, February 13, 2024

Mister Chairman and members of the committee, my name is Eric Stafford, Vice President of Government Affairs for the Kansas Chamber. The Kansas Chamber represents small, medium and large businesses of all industry segments across the state. We appreciate the opportunity to testify in support of House Bill 2648, which makes positive changes to the rule and reg process for Kansas state agencies.

In 2018, Governor Jeff Colyer signed House Bill 2280, implementing part of what's known as the REINS Act requiring state agencies to conduct an economic impact statement to seek input from interested organizations and citizens to fully capture the financial impact of proposed regulations on industry. However, JCARR has expressed concerns that under the current process, agencies often submit incomplete economic impact statements and there is no way to hold agencies accountable for performing necessary work to fully present what the impact will be on those operating under the specific regulatory changes.

House Bill 2648 aims to strengthen our state's rule and reg process by granting the budget director the authority to disapprove regulations for failure to submit a complete economic impact statement. The budget director *"shall review the agency's determination of the implementation and compliance costs reasonably expected to be incurred by or passed along to businesses, local governments and individuals..."*. We provide a definition of "implementation and compliance costs" based off Florida's statute.

HB 2648 also adds legislative oversight similar to Florida and Wisconsin, by requiring the legislature to pass a bill specifically authorizing proposed regulations if the anticipated compliance costs exceed \$1 million over the first five years of implementation (New Section 1). We have been told on average that means approximately four bills per year in Florida, so it is not an extremely burdensome process.

In closing, we respectfully ask the committee to support House Bill 2648. We believe these are positive changes for everyone impacted by rules and regulations. Thank you for the opportunity to testify in support of House Bill 2648 and I'm happy to answer questions at the appropriate time.

State of Kansas
Department of Labor
Notice of Public Hearing on Proposed Administrative
Regulations
November 4, 2021

The Kansas Department of Labor will conduct a public hearing to consider the proposed Workers Compensation regulations: K.A.R. 51-3-20, 51-9-10, 51-9-18, 51-9-19, 51-11-7, and 51-19-2. The public hearing will be held at 11:00 a.m. on January 12, 2022 in the auditorium of Memorial Hall, 120 SW 10th Ave., Topeka, Kansas 66612.

This 60-day notice of the public hearing shall constitute a public comment period for the purpose of receiving written public comments on the proposed rules and regulations. All interested parties may submit written comments prior to the hearing to the Workers Compensation Division, 401 SW Topeka Blvd., Suite 2, Topeka, KS 66603-3105 or by email to kdol.wc@ks.gov. All interested parties will be given a reasonable opportunity to present their views orally regarding the adoption of the proposed regulations during the public hearing. In order to provide all parties an opportunity to present their views, it may be necessary to request that each participant limit any oral presentation to five minutes.

Any individual with a disability may request an accommodation in order to participate in the public hearing and may request the proposed regulations and economic impact statements in an accessible format. Requests for accommodation to participate in the hearing should be made at least five working days in advance of the hearing by contacting the state's ADA Coordinator, Anthony Fadale at (785) 296-1389 or Anthony.fadale@ks.gov.

Copies of the proposed regulations and the Economic Impact Statement for the proposed regulations can be requested by submitting an email request to kdol.wc@ks.gov. Please ensure the subject line of the email request states which proposed regulation(s) is being requested.

Summaries of the proposed regulations and their economic impact follow. (Note: Statements indicating that a regulation is "not anticipated to have any economic impact" are intended to indicate that no economic impact on the Department of Labor, other state agencies, state employees, or the general public has been identified.)

K.A.R. 51-3-20

Notification of termination of benefits.

This proposed regulation would require employers or their insurance carriers to notify an injured worker when they stop paying benefits and provide their reason for doing so. No economic impact is anticipated.

K.A.R. 51-9-10

Medical bills, reports, and treatment.

This proposed regulation requires employers to share with the worker any written communication with their doctor or hospital within 10 days. Verbal communication with the worker's treating physician or their staff would require a specific release by the worker, and the worker would be given an opportunity to participate. This would require any report of verbal communications prepared by the employer's attorney be provided to the worker within 10 days of receipt of the report. This proposed

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regulation would enhance communication between the parties and medical providers with little or no additional costs.

K.A.R. 51-9-18 Designating the authorized treating physician.

This proposed regulation would apply after an employer has chosen a physician to treat an injured worker. Once the employer has chosen a treating physician, the employer would not be able to change that physician without the agreement of the injured worker. If the worker does not agree, then the case would go to a preliminary hearing before an Administrative Law Judge (ALJ) for resolution. No economic impact is anticipated.

K.A.R. 51-9-19 Neutral evaluation; causation.

When ALJs make a referral to a physician for a neutral evaluation, this proposed regulation would require the ALJ to request that the physician include information regarding the cause of an injury as required by statute. No economic impact is anticipated.

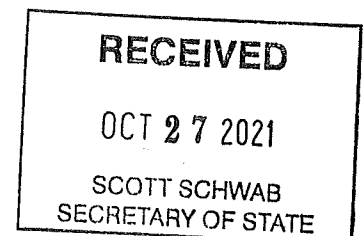
K.A.R. 51-11-7 Average weekly wage.

The average weekly wage of a worker is determined by looking at the actual earnings of a worker for the 26 weeks prior to the date of accident and then dividing by 26. This proposed regulation would reduce the number of weeks by one week for every five regular or scheduled days a worker does not receive compensation during the base period. No economic impact is anticipated.

K.A.R. 51-19-2 Post-award applications; "costs."

This proposed regulation would allow injured workers to seek reimbursement for the cost of obtaining an expert opinion from a doctor and the doctor's expert witness fee during post-award proceedings. If approved by the ALJ, these exam and deposition costs would be assessed to the employer and the employer's insurance carrier.

It is estimated that implementation and compliance could potentially total \$500,000 per year. In 2019, there were 699 post-award medical applications were filed. The fee schedule allows \$400 for the first hour of an exam and \$400 per hour for deposition costs. Per K.S.A. 44-510k, an administrative law judge has discretion in assessing costs so costs may be denied if the request wasn't appropriate.



51-3-20. Notification of termination of benefits. Each employer or its insurance carrier shall notify the injured worker in writing within 10 days of the termination of temporary total disability benefits, temporary partial disability benefits, or medical compensation, or any combination of these. The notification shall include the reason that the benefit has been terminated.

The employer or insurance carrier shall also notify, in writing, the injured worker's attorney of the termination of these benefits within the same 10 days. This notification shall include the reason that the benefit has been terminated. (Authorized by K.S.A. 44-573; implementing K.S.A. 2020 Supp. 44-510c, 44-510e, and 44-510h; effective P-_____.)

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51-9-10. Medical bills, reports, and treatment. (a) Upon the completion of treatment in all compensation cases, ~~physicians~~ each physician shall promptly notify the employer or insurance carrier, and shall render ~~their~~ the final bills ~~forthwith~~ to the employer or carrier. Bills for medical care providers and hospitals shall be itemized, showing the date and the charge for ~~services~~ each service rendered. Separate bills ~~should~~ shall be presented to the employer or insurance carrier by each surgeon, assistant, anesthetist, consultant, hospital, or nurse. In cases requiring prolonged treatment, ~~physicians should~~ each physician shall submit partial bills, fully itemized, at intervals of at least 60 days.

(b)(1) Medical reports of the physician ~~should~~ shall be submitted on a periodic basis depending upon the nature and severity of the injuries involved and, in all cases, immediately upon request of the ~~respondent~~ employer or insurance carrier. A report shall be rendered on the date on which the physician releases the worker to return to work and forwarded to the employer or insurance carrier and, if requested, to the employee worker, if requested.

(2) In ~~cases~~ each case of amputation, the physician shall mark the exact point of amputation on a diagram showing the ~~member~~ body part involved.

(3) The patient privilege preventing the furnishing of written medical information by doctors and hospitals is shall be waived by a worker seeking workers compensation benefits, and all written reports, records, or other data concerning examinations or treatment shall be furnished to the employer or insurance carrier, self-insured, group-funded pool, third-party administrator (TPA), or the director at that individual's request without the necessity of a release by the worker. A copy of any such written communication, whether to the doctor or hospital, or both, or from the doctor or hospital, or both, shall be provided within 10 days to the worker's representative.

(4) An oral communication, other than for scheduling or cancelling appointments, shall not occur without a specific release signed by the worker. If an attorney or representative of an insurance

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carrier, self-insured, group-funded pool, TPA, or case manager wants to orally communicate with the authorized treating physician, or any member of the authorized treating physician's staff, this communication shall be done only with reasonable notification of the date, time, and place of the oral communication and shall provide an opportunity for the worker or the worker's representative, or both, to participate in the communication.

(5) Each written report received by an attorney or representative of an insurance carrier, self-insured, group-funded pool, TPA, or case manager as a result of oral communication with an authorized treating physician or hospital, or both, shall be provided to the worker or worker's representative within 10 days of the receipt of the report. If a written summary of any oral communication with an authorized treating physician or hospital, or both, is prepared by an attorney or representative of an insurance carrier, self-insured, group-funded pool, TPA, or case manager, a copy of the written summary shall be provided to the worker or worker's representative within 10 days.

~~(4)~~ (6) Unreasonable refusal by the worker to cooperate with the employer or insurance carrier or the director by failing to furnish medical information releases for the worker's medical history may result in compensation being denied or terminated after hearing before the director.

~~(5)~~ (7) The ~~employee~~ worker shall immediately be furnished a copy of any medical report that authorizes return to work.

(c) Nurses, whether registered or practical, shall be furnished in an institution or the worker's home when the treating doctor recommends this nursing care. Nursing service by a member of the worker's family shall be provided if approved in advance by the treating physician. (Authorized by K.S.A. 1996 Supp. 44-510, as amended by L. 1997, Ch. 125, Sec. 4 and K.S.A. 44-573; implementing K.S.A. 2020 Supp. 44-510h; effective Jan. 1, 1966; amended Jan. 1, 1969; amended Jan. 1, 1971; amended Jan. 1,

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1973; amended, E-74-31, July 1, 1974; amended May 1, 1975; amended, E-76-23, May 30, 1975;
amended Feb. 15, 1977; amended May 1, 1978; amended May 22, 1998; amended P-_____.)

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51-9-18. Designating the authorized treating physician. After each employer has chosen an authorized treating physician, the employer shall not change the authorized treating physician without the agreement of the injured worker or the injured worker's attorney or without the employer proceeding to a preliminary hearing pursuant to K.S.A. 44-534a, and amendments thereto.

Nothing in this regulation shall prevent the authorized treating physician from exercising the right to make referrals or the right of either party to obtain an independent medical examination.

(Authorized by K.S.A. 44-573; implementing K.S.A. 2020 Supp. 44-510h and 44-534a; effective P-
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51-9-19. Neutral evaluations; causation. Each time an administrative law judge makes a referral to a physician for a neutral evaluation pursuant to K.S.A. 44-516(a) and amendments thereto on the issue of causation, the physician shall be asked to provide the following information:

“(a) Did the accident or repetitive trauma result in an injury? ‘Injury’ or ‘personal injury’ is defined as ‘a change in the physical structure of the body.’

“(b) What is your understanding of the mechanism of injury? Is the mechanism of injury described sufficient to result in the identified structural change?

“(c) What is your diagnosis?

“(d) What causative factors contribute to this injury and diagnosis?

“(e) Which of these individual factors contributed most to the injury and diagnosis?

“(f) Please explain your opinion as to why this is the most important factor that contributed to the injury and diagnosis.” (Authorized by K.S.A. 44-573; implementing K.S.A. 2020 Supp. 44-508 and 44-516; effective P-_____.)

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51-11-7. Average weekly wage. Pursuant to K.S.A. 44-511(b)(1) and amendments thereto, an employee's average weekly wage for the purpose of computing any compensation benefits provided under the Kansas workers compensation act to that employee shall be computed based on the wages that the employee has earned during the calendar weeks while employed by the employer, up to a maximum of 26 weeks. These total earnings shall be divided by the number of calendar weeks actually worked, up to a maximum of 26 calendar weeks. In making this calculation, the number of calendar weeks actually worked shall be reduced by one week for each five regular or scheduled workdays that the employee was absent, even if these absences do not occur in the same calendar week. (Authorized by K.S.A. 44-573; implementing K.S.A. 2020 Supp. 44-511; effective P-_____.)

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51-19-2. Post-award applications; "costs." "Costs," as used in K.S.A. 44-510k(c) and amendments thereto, shall include the cost of obtaining an expert opinion and the cost of the expert to testify as part of an application for post-award medical benefits. (Authorized by K.S.A. 44-573; implementing K.S.A. 2020 Supp. 44-510k; effective P-_____.)

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**Kansas Administrative Regulations
Economic Impact Statement
For the Kansas Division of the Budget**

Kansas Department of Labor/Work Comp Div.
Agency

Julie Menghini
Agency Contact

785-438-7244
Contact Phone Number

51-3-20
K.A.R. Number(s)

Submit a hard copy of the proposed rule(s) and regulation(s) and any external documents that the proposed rule(s) and regulation(s) would adopt, along with the following to: Division of the Budget
900 SW Jackson, Room 504-N
Topeka, KS 66612

I. Brief description of the proposed rule(s) and regulation(s).

Provide notice when temporary total benefits are terminated.

II. Statement by the agency if the rule(s) and regulation(s) is mandated by the federal government and a statement if approach chosen to address the policy issue is different from that utilized by agencies of contiguous states or the federal government. (If the approach is different, then include a statement of why the Kansas rule and regulation proposed is different)

No

III. Agency analysis specifically addressing following:

A. The extent to which the rule(s) and regulation(s) will enhance or restrict business activities and growth;

N/A

B. The economic effect, including a detailed quantification of implementation and compliance costs, on the specific businesses, sectors, public utility ratepayers, individuals, and local governments that would be affected by the proposed rule and regulation and on the state economy as a whole;

None

C. Businesses that would be directly affected by the proposed rule and regulation;

Stakeholders in workers compensation system

D. Benefits of the proposed rule(s) and regulation(s) compared to the costs;

Enhance communications providing injured worker notice and reason temporary total compensation terminated. No costs.

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E. Measures taken by the agency to minimize the cost and impact of the proposed rule(s) and regulation(s) on business and economic development within the State of Kansas, local government, and individuals;

None

F. An estimate, expressed as a total dollar figure, of the total annual implementation and compliance costs that are reasonably expected to be incurred by or passed along to business, local governments, or members of the public.

\$None

An estimate, expressed as a total dollar figure, of the total implementation and compliance costs that are reasonably expected to be incurred by or passed along to business, local governments, or members of the public.

\$None

Do the above total implementation and compliance costs exceed \$3.0 million over any two-year period?

YES NO

Give a detailed statement of the data and methodology used in estimating the above cost estimate.

N/A

Prior to the submission or resubmission of the proposed rule(s) and regulation(s), did the agency hold a public hearing if the total implementation and compliance costs exceed \$3.0 million over any two-year period to find that the estimated costs have been accurately determined and are necessary for achieving legislative intent? If applicable, document when the public hearing was held, those in attendance, and any pertinent information from the hearing.

YES NO

G. If the proposed rule(s) and regulation(s) increases or decreases revenues of cities, counties or school districts, or imposes functions or responsibilities on cities, counties or school districts that will increase expenditures or fiscal liability, describe how the state agency consulted with the League of Kansas Municipalities, Kansas Association of Counties, and/or the Kansas Association of School Boards.

N/A

H. Describe how the agency consulted and solicited information from businesses, associations, local governments, state agencies, or institutions and members of the public that may be affected by the proposed rule(s) and regulation(s).

Consulted with attorneys for claimants, employers and carriers.

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- I. For environmental rule(s) and regulation(s) describe the costs that would likely accrue if the proposed rule(s) and regulation(s) are not adopted, as well as the persons who would bear the costs and would be affected by the failure to adopt the rule(s) and regulation(s).

N/A

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Kansas Department of Labor/Work Comp Div.
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Julie Menghini
Agency Contact

785-438-7244
Contact Phone Number

51-9-10
K.A.R. Number(s)

Submit a hard copy of the proposed rule(s) and regulation(s) and any external documents that the proposed rule(s) and regulation(s) would adopt, along with the following to:

Division of the Budget
900 SW Jackson, Room 504-N
Topeka, KS 66612

I. Brief description of the proposed rule(s) and regulation(s).

Furnishing of medical reports, waiver of patient privilege and communications with healthcare providers.

II. Statement by the agency if the rule(s) and regulation(s) is mandated by the federal government and a statement if approach chosen to address the policy issue is different from that utilized by agencies of contiguous states or the federal government. (If the approach is different, then include a statement of why the Kansas rule and regulation proposed is different)

No

III. Agency analysis specifically addressing following:

A. The extent to which the rule(s) and regulation(s) will enhance or restrict business activities and growth;

Enhance communications between parties.

B. The economic effect, including a detailed quantification of implementation and compliance costs, on the specific businesses, sectors, public utility ratepayers, individuals, and local governments that would be affected by the proposed rule and regulation and on the state economy as a whole;

None

C. Businesses that would be directly affected by the proposed rule and regulation;

Stakeholders in workers compensation system

D. Benefits of the proposed rule(s) and regulation(s) compared to the costs;

Enhances communication between the parties and medical providers with little or no additional costs.

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E. Measures taken by the agency to minimize the cost and impact of the proposed rule(s) and regulation(s) on business and economic development within the State of Kansas, local government, and individuals;

None

F. An estimate, expressed as a total dollar figure, of the total annual implementation and compliance costs that are reasonably expected to be incurred by or passed along to business, local governments, or members of the public.

\$None

An estimate, expressed as a total dollar figure, of the total implementation and compliance costs that are reasonably expected to be incurred by or passed along to business, local governments, or members of the public.

\$None

Do the above total implementation and compliance costs exceed \$3.0 million over any two-year period?

YES NO

Give a detailed statement of the data and methodology used in estimating the above cost estimate.

N/A

Prior to the submission or resubmission of the proposed rule(s) and regulation(s), did the agency hold a public hearing if the total implementation and compliance costs exceed \$3.0 million over any two-year period to find that the estimated costs have been accurately determined and are necessary for achieving legislative intent? If applicable, document when the public hearing was held, those in attendance, and any pertinent information from the hearing.

YES NO

G. If the proposed rule(s) and regulation(s) increases or decreases revenues of cities, counties or school districts, or imposes functions or responsibilities on cities, counties or school districts that will increase expenditures or fiscal liability, describe how the state agency consulted with the League of Kansas Municipalities, Kansas Association of Counties, and/or the Kansas Association of School Boards.

N/A

H. Describe how the agency consulted and solicited information from businesses, associations, local governments, state agencies, or institutions and members of the public that may be affected by the proposed rule(s) and regulation(s).

Consulted with attorneys for claimants, employers and carriers

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- I. For environmental rule(s) and regulation(s) describe the costs that would likely accrue if the proposed rule(s) and regulation(s) are not adopted, as well as the persons who would bear the costs and would be affected by the failure to adopt the rule(s) and regulation(s).

N/A

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Kansas Department of Labor/Work Comp Div.
Agency

Julie Menghini
Agency Contact

785-438-7244
Contact Phone Number

51-9-18
K.A.R. Number(s)

Submit a hard copy of the proposed rule(s) and regulation(s) and any external documents that the proposed rule(s) and regulation(s) would adopt, along with the following to: Division of the Budget
900 SW Jackson, Room 504-N
Topeka, KS 66612

I. Brief description of the proposed rule(s) and regulation(s).

Clarify that employers/insurance carriers need to request or have agreement to change physicians just as claimants.

II. Statement by the agency if the rule(s) and regulation(s) is mandated by the federal government and a statement if approach chosen to address the policy issue is different from that utilized by agencies of contiguous states or the federal government. (If the approach is different, then include a statement of why the Kansas rule and regulation proposed is different)

N/A

III. Agency analysis specifically addressing following:

A. The extent to which the rule(s) and regulation(s) will enhance or restrict business activities and growth;

None

B. The economic effect, including a detailed quantification of implementation and compliance costs, on the specific businesses, sectors, public utility ratepayers, individuals, and local governments that would be affected by the proposed rule and regulation and on the state economy as a whole;

None

C. Businesses that would be directly affected by the proposed rule and regulation;

Stakeholders in workers compensation system

D. Benefits of the proposed rule(s) and regulation(s) compared to the costs;

Clarify authorized treating physician and prevent lapse in treatment to injured worker.

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E. Measures taken by the agency to minimize the cost and impact of the proposed rule(s) and regulation(s) on business and economic development within the State of Kansas, local government, and individuals;

None

F. An estimate, expressed as a total dollar figure, of the total annual implementation and compliance costs that are reasonably expected to be incurred by or passed along to business, local governments, or members of the public.

\$None

An estimate, expressed as a total dollar figure, of the total implementation and compliance costs that are reasonably expected to be incurred by or passed along to business, local governments, or members of the public.

\$None

Do the above total implementation and compliance costs exceed \$3.0 million over any two-year period?

YES NO

Give a detailed statement of the data and methodology used in estimating the above cost estimate.

N/A

Prior to the submission or resubmission of the proposed rule(s) and regulation(s), did the agency hold a public hearing if the total implementation and compliance costs exceed \$3.0 million over any two-year period to find that the estimated costs have been accurately determined and are necessary for achieving legislative intent? If applicable, document when the public hearing was held, those in attendance, and any pertinent information from the hearing.

YES NO

G. If the proposed rule(s) and regulation(s) increases or decreases revenues of cities, counties or school districts, or imposes functions or responsibilities on cities, counties or school districts that will increase expenditures or fiscal liability, describe how the state agency consulted with the League of Kansas Municipalities, Kansas Association of Counties, and/or the Kansas Association of School Boards.

N/A

H. Describe how the agency consulted and solicited information from businesses, associations, local governments, state agencies, or institutions and members of the public that may be affected by the proposed rule(s) and regulation(s).

Consulted with attorneys for claimants, employers and insurance companies.

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- I. For environmental rule(s) and regulation(s) describe the costs that would likely accrue if the proposed rule(s) and regulation(s) are not adopted, as well as the persons who would bear the costs and would be affected by the failure to adopt the rule(s) and regulation(s).

N/A

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Julie Menghini
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785-438-7244
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900 SW Jackson, Room 504-N
Topeka, KS 66612

I. Brief description of the proposed rule(s) and regulation(s).

Questions to be addressed by IME physician

II. Statement by the agency if the rule(s) and regulation(s) is mandated by the federal government and a statement if approach chosen to address the policy issue is different from that utilized by agencies of contiguous states or the federal government. (If the approach is different, then include a statement of why the Kansas rule and regulation proposed is different)

No

III. Agency analysis specifically addressing following:

A. The extent to which the rule(s) and regulation(s) will enhance or restrict business activities and growth;

N/A

B. The economic effect, including a detailed quantification of implementation and compliance costs, on the specific businesses, sectors, public utility ratepayers, individuals, and local governments that would be affected by the proposed rule and regulation and on the state economy as a whole;

None

C. Businesses that would be directly affected by the proposed rule and regulation;

Stakeholders in workers compensation system

D. Benefits of the proposed rule(s) and regulation(s) compared to the costs;

Requires physician to address prevailing factor issues. Should be no additional cost.

E. Measures taken by the agency to minimize the cost and impact of the proposed rule(s) and regulation(s) on business and economic development within the State of Kansas, local government, and individuals;

None

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F. An estimate, expressed as a total dollar figure, of the total annual implementation and compliance costs that are reasonably expected to be incurred by or passed along to business, local governments, or members of the public.

\$None

An estimate, expressed as a total dollar figure, of the total implementation and compliance costs that are reasonably expected to be incurred by or passed along to business, local governments, or members of the public.

\$None

Do the above total implementation and compliance costs exceed \$3.0 million over any two-year period?

YES NO

Give a detailed statement of the data and methodology used in estimating the above cost estimate.

N/A

Prior to the submission or resubmission of the proposed rule(s) and regulation(s), did the agency hold a public hearing if the total implementation and compliance costs exceed \$3.0 million over any two-year period to find that the estimated costs have been accurately determined and are necessary for achieving legislative intent? If applicable, document when the public hearing was held, those in attendance, and any pertinent information from the hearing.

YES NO

G. If the proposed rule(s) and regulation(s) increases or decreases revenues of cities, counties or school districts, or imposes functions or responsibilities on cities, counties or school districts that will increase expenditures or fiscal liability, describe how the state agency consulted with the League of Kansas Municipalities, Kansas Association of Counties, and/or the Kansas Association of School Boards.

N/A

H. Describe how the agency consulted and solicited information from businesses, associations, local governments, state agencies, or institutions and members of the public that may be affected by the proposed rule(s) and regulation(s).

Consulted with attorneys for claimants, employers and carriers.

I. For environmental rule(s) and regulation(s) describe the costs that would likely accrue if the proposed rule(s) and regulation(s) are not adopted, as well as the persons would bear the costs and would be affected by the failure to adopt the rule(s) and regulation(s).

N/A

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Kansas Administrative Regulations Economic Impact Statement For the Kansas Division of the Budget

Kansas Department of Labor/Work Comp Div.
Agency

Julie Menghini
Agency Contact

785-438-7244
Contact Phone Number

51-11-7
K.A.R. Number(s)

Submit a hard copy of the proposed rule(s) and regulation(s) and any external documents that the proposed rule(s) and regulation(s) would adopt, along with the following to: Division of the Budget
900 SW Jackson, Room 504-N
Topeka, KS 66612

I. Brief description of the proposed rule(s) and regulation(s).

Clarify computation of average weekly wage.

II. Statement by the agency if the rule(s) and regulation(s) is mandated by the federal government and a statement if approach chosen to address the policy issue is different from that utilized by agencies of contiguous states or the federal government. (If the approach is different, then include a statement of why the Kansas rule and regulation proposed is different)

N/A

III. Agency analysis specifically addressing following:

A. The extent to which the rule(s) and regulation(s) will enhance or restrict business activities and growth;

N/A

B. The economic effect, including a detailed quantification of implementation and compliance costs, on the specific businesses, sectors, public utility ratepayers, individuals, and local governments that would be affected by the proposed rule and regulation and on the state economy as a whole;

None

C. Businesses that would be directly affected by the proposed rule and regulation;

Stakeholders in workers compensation system

D. Benefits of the proposed rule(s) and regulation(s) compared to the costs;

Clarify wage computation when worker may not have worked regular schedule. No costs.

E. Measures taken by the agency to minimize the cost and impact of the proposed rule(s) and regulation(s) on business and economic development within the State of Kansas, local government, and individuals;

None

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F. An estimate, expressed as a total dollar figure, of the total annual implementation and compliance costs that are reasonably expected to be incurred by or passed along to business, local governments, or members of the public.

\$None

An estimate, expressed as a total dollar figure, of the total implementation and compliance costs that are reasonably expected to be incurred by or passed along to business, local governments, or members of the public.

\$None

Do the above total implementation and compliance costs exceed \$3.0 million over any two-year period?

YES NO

Give a detailed statement of the data and methodology used in estimating the above cost estimate.

N/A

Prior to the submission or resubmission of the proposed rule(s) and regulation(s), did the agency hold a public hearing if the total implementation and compliance costs exceed \$3.0 million over any two-year period to find that the estimated costs have been accurately determined and are necessary for achieving legislative intent? If applicable, document when the public hearing was held, those in attendance, and any pertinent information from the hearing.

YES NO

G. If the proposed rule(s) and regulation(s) increases or decreases revenues of cities, counties or school districts, or imposes functions or responsibilities on cities, counties or school districts that will increase expenditures or fiscal liability, describe how the state agency consulted with the League of Kansas Municipalities, Kansas Association of Counties, and/or the Kansas Association of School Boards.

N/A

H. Describe how the agency consulted and solicited information from businesses, associations, local governments, state agencies, or institutions and members of the public that may be affected by the proposed rule(s) and regulation(s).

Consulted with attorneys for claimants, employers and insurance carriers.

I. For environmental rule(s) and regulation(s) describe the costs that would likely accrue if the proposed rule(s) and regulation(s) are not adopted, as well as the persons would bear the costs and would be affected by the failure to adopt the rule(s) and regulation(s).

N/A

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**Kansas Administrative Regulations
Economic Impact Statement
For the Kansas Division of the Budget**

Kansas Department of Labor/Work Comp Div.
Agency

Julie Menghini
Agency Contact

785-438-7244
Contact Phone Number

51-19-2
K.A.R. Number(s)

Submit a hard copy of the proposed rule(s) and regulation(s) and any external documents that the proposed rule(s) and regulation(s) would adopt, along with the following to: Division of the Budget
900 SW Jackson, Room 504-N
Topeka, KS 66612

I. Brief description of the proposed rule(s) and regulation(s).

Addresses items to be included as costs in pursuing post award medical treatment.

II. Statement by the agency if the rule(s) and regulation(s) is mandated by the federal government and a statement if approach chosen to address the policy issue is different from that utilized by agencies of contiguous states or the federal government. (If the approach is different, then include a statement of why the Kansas rule and regulation proposed is different)

No

III. Agency analysis specifically addressing following:

A. The extent to which the rule(s) and regulation(s) will enhance or restrict business activities and growth;

N/A

B. The economic effect, including a detailed quantification of implementation and compliance costs, on the specific businesses, sectors, public utility ratepayers, individuals, and local governments that would be affected by the proposed rule and regulation and on the state economy as a whole;

None

C. Businesses that would be directly affected by the proposed rule and regulation;

Employers and workers compensation insurers

D. Benefits of the proposed rule(s) and regulation(s) compared to the costs;

It will allow injured workers to pursue ongoing or future medical treatment if the respondent/insurance carrier deny payment.

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E. Measures taken by the agency to minimize the cost and impact of the proposed rule(s) and regulation(s) on business and economic development within the State of Kansas, local government, and individuals;

None

F. An estimate, expressed as a total dollar figure, of the total annual implementation and compliance costs that are reasonably expected to be incurred by or passed along to business, local governments, or members of the public.

\$500,000

An estimate, expressed as a total dollar figure, of the total implementation and compliance costs that are reasonably expected to be incurred by or passed along to business, local governments, or members of the public.

Click here to enter amount.

Do the above total implementation and compliance costs exceed \$3.0 million over any two-year period?

YES NO

Give a detailed statement of the data and methodology used in estimating the above cost estimate.

In 2019 there were 699 post award medical applications filed. The fee schedule allows \$400 for the first hour of an exam and \$400 per hour for deposition cost. That totals approximately \$500,000. K.S.A. 44-510k give the administrative law judge discretion in assessing costs so if the request wasn't appropriate, costs could be denied.

Prior to the submission or resubmission of the proposed rule(s) and regulation(s), did the agency hold a public hearing if the total implementation and compliance costs exceed \$3.0 million over any two-year period to find that the estimated costs have been accurately determined and are necessary for achieving legislative intent? If applicable, document when the public hearing was held, those in attendance, and any pertinent information from the hearing.

YES NO

G. If the proposed rule(s) and regulation(s) increases or decreases revenues of cities, counties or school districts, or imposes functions or responsibilities on cities, counties or school districts that will increase expenditures or fiscal liability, describe how the state agency consulted with the League of Kansas Municipalities, Kansas Association of Counties, and/or the Kansas Association of School Boards.

Consulted with attorneys who represent some of these groups.

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- H. Describe how the agency consulted and solicited information from businesses, associations, local governments, state agencies, or institutions and members of the public that may be affected by the proposed rule(s) and regulation(s).

Consulted with attorneys for claimants, employers and insurance carriers.

- I. For environmental rule(s) and regulation(s) describe the costs that would likely accrue if the proposed rule(s) and regulation(s) are not adopted, as well as the persons who would bear the costs and would be affected by the failure to adopt the rule(s) and regulation(s).

N/A

