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Labor and Employment Alert: New Opioid Prescribing Rules Help Employers Fight Addiction

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The Ohio Workers' Compensation system is a part of the opioid crisis in Ohio because injured workers have a very high level of opioid use. But rules governing the prescription of opioids give employers a powerful tool to combat the development of opioid addiction. An important rule that became effective on January 1, 2017, was adopted to "address serious non-compliance" with best medical practices by doctors treating workers' compensation claimants. Employers must know how to use the rules in order for them to be helpful in reducing excessive levels of opioid use.

The newest rule governs long-term pain treatment and kicks in when opioids are still being prescribed only **six weeks** after a work-related injury. To continue prescribing opioid medication beyond a month and a half, prescribers must show that they are satisfying a multi-step protocol that many long-term opioid prescribers ignore.

If opioids are prescribed for more than **12 weeks**, additional requirements must be met, including a demonstration that alternatives to opioids have recently been tried and failed. If the prescriber does not fulfill these requirements, the cost of opioids is not payable by the Bureau of Workers' Compensation or a self-insured employer. The rules also contemplate addiction rehab being made available through the system.

The January 2017 rule is part of the bureau's long-term effort to reduce opioid use in Ohio workers' compensation claims. In 2010, the bureau allowed self-insured employers to terminate reimbursement for a drug when an independent physician review indicates that the drug is not necessary. In 2011, the bureau adopted a "formulary," which is the complete list of medications that are approved for reimbursement. The formulary not only specifies which drugs may be prescribed, but also sets limits on their use. For example, because the prescription of muscle relaxants for years at a time exceeds the parameters established by the formulary, such a long-term use of muscle relaxants would not be paid for by the workers' compensation system.

When the necessary evidence is developed, these rules can be used successfully to curtail long-term use of opioids and other drugs. Consult a Vorys lawyer for assistance.