

**MEMORANDUM**

**TO:** Jenelle Donovan-Lyle, Ohio Department of Medicaid

**FROM:** Sydney King, Regulatory Policy Advocate

**DATE:** August 22, 2013

**RE:** **CSI Review – Determining Patient Liability (OAC 5101:1-39-24)**

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On behalf of Lt. Governor Mary Taylor, and pursuant to the authority granted to the Common Sense Initiative (CSI) Office under Ohio Revised Code (ORC) section 107.54, the CSI Office has reviewed the abovementioned administrative rule package and associated Business Impact Analysis (BIA). This memo represents the CSI Office's comments to the Agency as provided for in ORC 107.54.

**Analysis**

The Ohio Department of Medicaid submitted a rule package to the CSI Office for review consisting of one rule related to patient liability. Rule 5101:1-39-24 determines Medicaid patient liability and is amended to comply with a Federal Court Order in *Ledford v. Colbert*, Case No. 1:10-cv-706. The rule is reviewed as part of the five-year review process required by ORC 119.032. The rule package was filed with the CSI Office on June 28, 2013, and the comment period for the rules closed on July 5, 2013. Two comments were received during the public comment period. These comments did not concern the sections that create an adverse impact for providers.

Rule 5101:1-39-24 describes how the agency will determine the amount of income a Medicaid recipient must contribute towards the cost of his/her long-term care services as required by federal Medicaid law.

According to the BIA, the draft regulation went through an internal pre-clearance review and was posted on the state clearance website on February 1, 2013 for 14 days. Comments were received

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from stakeholders and later addressed personally by Medicaid Staff.

Although the amendments to the rule do not contain an adverse impact, sections 5101:1-39-24 (E), (F), and (G) do create compliance costs for providers. These sections contain payment processing requirements for Medicaid providers. Providers are required to receive, process, and refund patient liability payments. The BIA cites these administrative costs as the adverse impact for providers. In conversations with Medicaid, they stated that the provider is the best entity to efficiently process payments, and this process will also ensure timely payments to the providers.

The CSI Office is not suggesting any changes with respect to the rules or the BIA for the following reasons:

- The comments received from the public during the public comment period did not involve the sections that create an adverse impact.
- The BIA submitted by Medicaid is accurate and complete and does not raise any ongoing issues.
- Generally, the rule package satisfactorily meets the standards espoused by the CSI Office.

### **Recommendation**

For the reasons explained above this office does not have any recommendations regarding this rule package.

### **Conclusion**

Based on the above comments, the CSI Office concludes that the Department should proceed with the formal filing of this rule package with the Joint Committee on Agency Rule Review.

cc: Mark Hamlin, Lt. Governor's Office