

**MEMORANDUM**

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

**FROM:** Mark Hamlin, Director of Regulatory Policy

**DATE:** October 14, 2013

**RE:** **CSI Review – BHPP Psychology and Skilled Therapy (OAC5101:3-4-26; 5101:3-8-01; 5101:3-8-02; 5101:3-8-03; 5101:3-8-05; 5101:3-8-30; 5101:3-8-31; 5101:3-8-32; 5101:3-8-33; 5101:3-8-34; 5101:3-34-01; 5101:3-34-01.1; 5101:3-34-01.2; and 5101:3-34-01.3)**

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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**

This rule package being proposed by the Department of Medicaid would amend the rules that address skilled therapy services in non-institutional settings and psychology services. In the area of skilled therapy, the Department is proposing to rescind eight existing rules and replace them with six rules, including five new consolidated and renumbered rules. Existing rule 5101:3-8-05 relates to psychology services, and the Department is proposing an amended rule with several significant revisions. The rule package was submitted to the CSI Office on September 20, 2013 and the comment period ended on September 25, 2013. No stakeholder comments were submitted during the review period.

According to the BIA submitted by the Department, the new rules regarding skilled therapy recognize speech-language pathologists and audiologists as eligible Medicaid providers for the first time. The Department's proposal also streamlines the skilled therapy rules and imposes

additional changes to the way benefits are administered in this program area. The amended psychology rule also makes a number of changes to the way the benefit is administered.

Although no comments were submitted by stakeholders during the CSI review, the CSI Office did follow up with both the Ohio Board of Psychology and the Ohio Board of Speech-Language Pathology & Audiology to ensure that the Medicaid rules do not duplicate or conflict with professional licensing rules in these areas, as the Department's BIA did not indicate that it had conferred with these Boards. The Board of Speech-Language Pathology & Audiology did express concern about certain aspects of the rules, and a desire to better understand the requirements that the Medicaid rules could impose on the Board's licensees. Board staff and Medicaid staff each expressed a willingness to continue meeting to ensure consistency among their respective rules, and to revise the rules after they are filed with the Joint Committee on Agency Rule Review (JCARR) if further changes are necessary.

Ultimately, the Department's proposed rules create adverse impacts that appear to be typical for providers in the Medicaid system, and no comments were submitted suggesting that these providers find the rules unduly burdensome. Although the CSI Office does have concerns about potential inconsistencies between Medicaid rules and licensing board rules, it will continue to work with both parties to resolve any such inconsistencies. However, the adverse impacts to business from the rules as presented are justified.

### **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.