

**MEMORANDUM**

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

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

**DATE:** November 29, 2013

**RE:** **CSI Review – MyCare Ohio Plan Rules (OAC 5160-58-02.1, 5160-58-03, 5160-58-03.2, 5160-58-05.3 and 5160-58-08.4)**

---

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 (ODM) submitted five new rules to the CSI Office for review. The rule package was filed with the CSI Office on November 5, 2013, and the comment period for the rules closed on November 12, 2013. Thirteen comments were received during the public comment period.

MyCare Ohio is being established to manage the full continuum of Medicare and Medicaid benefits for Medicare-Medicaid enrollees. According to the BIA submitted by the Department, MyCare Ohio will provide unprecedented coordination of long-term care services, behavioral health services, and physical health services. These services will be provided by five managed care plans.

The rules detail the requirements for the MyCare Ohio HCBS (home and community based services) waiver program, membership termination, membership access to services, incident management, and the grievance process. The rules implement federal statute that imposes

comprehensive requirements on Medicaid managed care plans, including the MyCare Ohio plans. Additionally, Ohio was required to seek and obtain federal approval from the Centers for Medicare and Medicaid Services (CMS) for a 1915(b)(c) waiver in order to be able to implement the mandatory enrollment of Medicare-Medicaid beneficiaries in MyCare Ohio plans. The rules are intended to ensure Ohio is complying with CMS requirements related to the waiver.

Prior to the drafting of the rules, ODM invited key stakeholders to provide informal input regarding the development of the MyCare Ohio program. Bi-weekly meetings have been held with the stakeholders since May 2013. Additional outreach was performed in reviewing the incident management rule currently in place for ODM-administered waivers. The rule was modified as a result of stakeholder input. ODM responded to the comments received by providing clarity and justification for the requirements. Many of the comments suggested changes to rules that were implementing federal requirements and therefore could not be amended.

Rules 5160-58-08.4, 5160-58-03, 5160-58-03.2, and 5160-58-02.1 contain adverse impacts for only the five managed care plans that have been selected for MyCare Ohio. These five companies are Aetna, Buckeye, CareSource, Molina, and UnitedHealthCare. According to the BIA, ODM issued a request for applications for health plans to contract with the State to serve Medicare-Medicaid enrollees in the MyCare Ohio program. At that time, the applying plans were aware of the federal requirements prior to seeking contracts with the State, as well as before signing their contracts with the State. ODM further assured CSI that the requirements were discussed at length during the competitive procurement process. ODM states the requirements are necessary to comply with federal regulations.

Rule 5160-58-5.3 impacts ODM's provider oversight contractor, the managed care plans that have been selected for MyCare Ohio, and the providers that contract with the plans to provide MyCare Ohio waiver services. MyCare Ohio waiver providers and ODM's provider oversight contractor are required to issue notifications and reports regarding incidents involving MyCare Ohio members. According to ODM, the rules are necessary to comply with the terms of the federal waiver and to ensure the health and safety of individuals enrolled in MyCare Ohio.

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

- ODM responded to the comments received from the public during the public comment period by providing clarity and justification for the rules.
- The BIA submitted by ODM 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 Agency 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