

**MEMORANDUM**

**TO:** Tommi Potter, Ohio Department of Medicaid

**FROM:** Sophia Papadimos, Regulatory Policy Assistant

**DATE:** April 7, 2015

**RE:** **CSI Review – Home Health and Private Duty Nursing Rules (OAC 5160-12-01, 5160-12-02, 5160-12-02.3, 5160-12-03, 5160-12-03.1 and 5160-12-08)**

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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 consists of six rules being proposed by the Ohio Department of Medicaid (ODM) pursuant to the five-year review requirement in statute. The proposed rules pertain to home health and private-duty nursing services reimbursable through ODM. Five of the rules are being proposed with amendments and one new rule is being proposed. The rule package was submitted to the CSI Office on March 20, 2015 and the public comment period was held open through March 27, 2015. No comments were received during this time.

The purpose of home health and private-duty nursing services is to assist individuals who reside in their homes, who without the provision of these services would otherwise be in a hospital or nursing facility. Home health services are provided on a part-time basis and private-duty nursing services are provided on a continuous basis. The proposed rules outline provision requirements, coverage, and service specifications. The proposed rules also explain the procedures for service authorization. Qualifications and requirements for Medicare-certified home health agencies are described in the draft rules; as are the qualifications and requirements for non-agency nurses and

otherwise-accredited agencies. The rules are being amended for reference updates, minor language changes, and clarification purposes. Also, amendments are being made to add services not covered by private duty nursing and change some prior authorization requirements. Ohio Administrative Code (OAC) 5160-12-08 is the one new rule being proposed in this package. This rule outlines two new State Plan services, registered nurse assessments and registered nurse consultations. OAC 5160-12-08 includes definitions, provider qualifications, service provisions, reimbursement procedures, and record-keeping requirements.

The adverse impacts described by ODM include time and financial costs associated with compliance, such as submitting information, retaining records, and executing provider agreements. Medicaid has included stakeholders throughout this rule-review process and continues to have conversations with the Midwest Care Alliance, the Ohio Council for Home Care and Hospice, and the Ohio Provider Resource Association. ODM plans to make more revisions to health home and private-duty nursing rules later in 2015. All organizations will continue to be included in discussions when more revisions are made to the chapter. No comments were received during the public comment period in opposition to the proposed rules. Therefore, after reviewing the proposed rules and associated BIA, the CSI Office has determined the purpose of the rules is 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 Ohio Department of Medicaid should proceed with the formal filing of this rule package with the Joint Committee on Agency Rule Review.