

**MEMORANDUM**

TO: Tommi Potter, Ohio Department of Medicaid

FROM: Sophia Papadimos, Regulatory Policy Assistant

DATE: April 10, 2015

RE: CSI Review – Level of Care (OAC 5160-3-10 and 5160-3-14)

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 two amended¹ rules being proposed by the Ohio Department of Medicaid (ODM) pursuant to the five-year review requirement in statute. 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.

This rule package outlines the level of care assessment required for children and adults seeking admission to a nursing facility-based level of care program. A nursing facility-based level of care assessment is necessary for Medicaid payment for a nursing facility stay or home and community-based services (HCBS) waiver enrollment. Under the existing rule, both children and adults are assessed using the same criteria and process. Ohio Administrative Code (OAC) 5160-3-14 is being amended to update the process specifically for adults. OAC 5160-3-10 is a new rule being proposed to address the process for children.

¹ OAC 5160-3-14 is being amended by more than 50 percent. Therefore, the Legislative Service Commission requires that the existing rule be rescinded and replaced by a new rule that has the same rule number.

ODM conducted a thorough stakeholder outreach which included other state agencies, the Midwest Care Alliance, Disability Rights Ohio, the Ohio Health Care Association, the Ohio Provider Resource Association and other organizations. Feedback was solicited and changes were made to the proposed rules based on the input received.

ODM explains in the BIA that the impacted businesses are hospitals and nursing facilities. The adverse impacts include the time and money associated with completing a level of care assessment. A level of care assessment includes either a questionnaire or comprehensive assessment tool. Depending on the assessment, this can take between one hour and two and a half hours.

No comments were received during the public comment period in opposition to the proposed rules. Federal regulations also require level of care assessments be conducted. 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.