

**MEMORANDUM**

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

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

**DATE:** March 26, 2015

**RE:** **CSI Review – Managed Care Five-Year Rule Review (OAC 5160-26-02.1, 5160-26-03, 5160-26-05, 5160-26-05.1, 5160-26-10)**

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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 five amended<sup>1</sup> 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 November 19, 2014 and the public comment period was held open through November 26, 2014. No comments were received during this time. After reviewing the BIA, the CSI Office on December 12, 2014 submitted several questions to ODM surrounding the adverse impacts created by the rules and feedback that was received from stakeholders. ODM provided the additional information in a revised Business Impact Analysis (BIA) on March 24, 2015.

The proposed rules pertain to Medicaid's managed health care programs (MCPs). The draft rules outline subcontracting requirements, the process for a member to be terminated from a managed

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<sup>1</sup> Two rules are being amended by more than 50 percent. Therefore, the Legislative Service Commission requires that the existing rules be rescinded and replaced by new rules that have the same rule numbers.

care program, disenrollment requests, and covered services. Additionally, the proposed rules outline provider agreements and potential sanctions for failing to comply with the rules. Amendments are being made to clarify the obligations of MCPs regarding the payment of emergency services provided by hospitals. Other amendments update the obligations of MCPs regarding provider qualifications and notification requirements. Lastly, the draft rules are being amended to correct legal citations and cross-references, and to provide more clarity.

The managed care plans affected by these rules include Buckeye, CareSource, Molina, Paramount and United Health Care. ODM sought feedback from the managed care plans, the Ohio Hospital Association, and Voices for Ohio's Children during early stakeholder outreach. In the revised BIA submitted by the Department, it was explained that Paramount asked for clarification on several of the rules, which ODM supplied. The adverse impacts described in the revised BIA include the time to maintain and submit required reports. The required reports include documents that address the use of medical providers as subcontractors and notifications to members concerning appeals, grievances, and hearing procedures. Other adverse impacts are sanctions and penalties (corrective action plans and fines) for non-compliance.

The Department included stakeholders in the drafting of the proposed amendments. Additionally, no comments were received that the requirements are overly burdensome. Therefore, 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.