

**MEMORANDUM**

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

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

**DATE:** October 23, 2015

**RE:** **CSI Review – Mental Health Services (OAC 5160-4-29 and 5160-8-05)**

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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This rule package consists of one rescinded rule and one amended<sup>1</sup> rule being proposed by the Ohio Department of Medicaid (ODM). The rule package was reviewed by ODM pursuant to the statutory five-year review requirement. The rule package was submitted to the CSI Office on August 19, 2015 and the public comment period was held open through August 26, 2015.

The rule package establishes the requirements for the coverage and payment provisions for mental health services. The amendments to the rule package expand the list of licensed professionals that may provide mental health services and submit reimbursement claims to ODM. The rule package also expands the list of covered services to include assessment and behavior change intervention and psychotherapy for crisis. Rule 5160-4-29 is being rescinded and the language will be reorganized under draft Rule 5160-8-05.

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<sup>1</sup> Rule 5160-8-05 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 Therefore, the Legislative Service Commission requires that the existing rule be rescinded and replaced by a new rule that has the same rule number.

According to the BIA, ODM coordinated with the National Association of Social Workers Ohio Chapter, the Ohio Counselor, Social Worker, and Marriage and Family Therapist Board, the Ohio Association of Marriage and Family Therapy, Ohio Medicaid Managed Care Plans, the Ohio Counseling Association, the Ohio Psychological Association, the Ohio Board of Psychology, and the Ohio Chemical Dependency Professionals Board. In the BIA, ODM included the details of the stakeholder conversations and the suggestions that were incorporated.

During the CSI public comment period, six public comments were received. The comments suggested expanding the list of professionals that will receive reimbursement for mental health services, revising the reimbursement rates for fees, and expanding the program limits on therapeutic visits. Other comments addressed regulations that are not included in the rule package.. Reimbursement rates are not considered adverse impacts as defined in ORC 107.52 and therefore, CSI does not have a role in addressing rates. ODM has communicated to the CSI Office that it intends to further expand the list of professionals that may receive reimbursement for mental health services by July 2016. Stakeholders commented that it is within the scope of practice of chemical dependency professionals to provide the services listed in the rule. ODM agrees that chemical dependency professionals can provide the mental health services but due to the updates to the Medicaid software that would be necessary to address the expansion, amending the rule further would cause significant delays in the rule package moving forward. The current draft language expands the list of professionals currently allowed to receive Medicaid reimbursements. ODM states that it is necessary to move forward with the rule package without the amendments that would include chemical dependency professionals because it will provide more mental health service options for Medicaid consumers. By committing to further amend the list by July 2016, it addresses the concerns of the stakeholders but also provides Medicaid consumers with more options for mental health services sooner. ODM responded to the comments regarding expanding the program limits on therapeutic visits stating that more visits may be allowed through the prior authorization process.

ODM identifies mental health professionals as the impacted business community. The costs associated with the impacts include the documentation of the medical services, holding a Medicaid provider agreement, and potential limits on the type of services that may be reimbursed. ODM states that the regulations perform several core business functions by establishing who can provide services, publishing the reimbursement rates, and requiring documentation of medical services.

After reviewing the proposed rules and the BIA, the CSI Office has determined that the rule package satisfactorily meets the standards espoused by the CSI Office, and 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.