

**MEMORANDUM**

TO: Tommi Potter, Ohio Department of Medicaid

FROM: Sydney King, Regulatory Policy Advocate

DATE: February 29, 2016

RE: **CSI Review – Ambulatory Surgery Center Services (OAC 5160-22-01)**

On behalf of Lt. Governor Mary Taylor, and pursuant to the authority granted to the Common Sense Initiative (CSI) Office under Ohio Revised Code (O.R.C.) 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 amended¹ rule being proposed by the Ohio Department of Medicaid (ODM). This chapter of the Ohio Administrative Code was reviewed by ODM pursuant to the statutory five-year review requirement. The rule package was submitted to the CSI Office on February 4, 2016 and the public comment period was held open through February 11, 2016.

The rule package establishes the regulatory requirements for ambulatory surgery centers (ASC) in order to enroll in the Ohio Medicaid program. The rule includes requirements for Medicaid providers, covered and non-covered ASC surgical procedures, covered facility services, and the method of reimbursement. In order to be consistent between similar programs and to avoid duplicate costs associated with licensure and certification to the business community, ODM adopted Medicare requirements and requires an ASC to have a valid agreement with the Centers for Medicare and Medicaid Services (CMS).

¹ Rule 5160-22-01 rule 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 Therefore, the Legislative Service Commission requires that the existing rule be rescinded and replaced by a new rule that has the same rule number.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 solicited stakeholder input in the development of the draft language. Stakeholders included the Ohio Association of Ambulatory Surgery Centers. The BIA states that no substantive comments were received during early stakeholder outreach, and no comments were submitted during the CSI public comment period.

ODM identified ASCs as the impacted industry and provided a cost estimate of the adverse impacts in the BIA. The estimated adverse impacts include obtaining a valid agreement with CMS and a fee for accreditation (estimated to range from \$3,000 to \$5,000) needed in order to obtain the valid agreement. ODM states that ASCs are a mandatory service under Medicaid but federal law or regulation do not detail the eligibility requirements or manners of reimbursement. ODM asserts that adopting Medicare regulations reduces costs for licensure and certification because it does not duplicate or create separate standards.

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.