

**MEMORANDUM**

TO: Tommi Potter, Ohio Department of Medicaid

FROM: Sydney King, Regulatory Policy Advocate

DATE: April 15, 2016

RE: **CSI Review – HCBS Settings and Person-Centered Planning (OAC 5160-44-02)**

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 new rule being proposed by the Ohio Department of Medicaid (ODM). Rules 5160-44-01 and 5160-46-02 provide regulations for eligibility and were included for informational purposes only. The rule package was submitted to the CSI Office on March 3, 2016 and the public comment period was held open through March 10, 2016.

The rule package establishes requirements for a person-centered planning process for nursing facility-based level of care home and community-based service. The rule provides the details of the person-centered planning process and the requirements for the plans, reporting, and documentation. In order for CMS to approve a 1915(c) home and community-based services waiver or a 1915(i) Medicaid state plan option, ODM must establish a person-centered planning process. ODM states the rule complies with the federal Centers for Medicare and Medicaid Services (CMS) requirements.

The BIA describes the early stakeholder outreach that included members of the impacted industry, various state agencies, industry associations, universities and colleges, and several

medical groups. According to ODM, the rule was revised based on stakeholder input. This input included requesting a redrafting of the rule in order to avoid misinterpretation and be more consistent with CMS language. One comment was submitted during the CSI public comment period and ODM responded by providing justification for the language.

ODM identifies businesses that furnish case management services to any of Ohio's 1915(c) waivers or recovery management services to Ohio's 1915(i) state plan options as the impacted industry. This includes entities under contract with ODM and Medicaid's managed care organizations. The BIA provided a detailed description of the adverse impacts to the stakeholders with the associated costs. The adverse impacts include staffing, reporting and documentation requirements, administrative expenses, and training costs. ODM states the rule is necessary in order to receive CMS approval for the home and community-based services programs.

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.