

**MEMORANDUM**

**TO:** Howard Henry, Ohio Department of Mental Health and Addiction Services

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

**DATE:** March 25, 2016

**RE:** **CSI Review – Peer Recovery Services (OAC 5122-29-15 and 5122-29-15.1)**

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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 two draft rules (one new and one amended<sup>1</sup>) submitted by the Ohio Department of Mental Health and Addiction Services (OhioMHAS). This rule package was previously submitted to the CSI Office in November 2015 but due to stakeholder comments, OhioMHAS withdrew the package in order address concerns. The rule package was resubmitted to the CSI Office on December 29, 2015 and the comment period was held open through January 31, 2016. Six comments were received during this time.

The draft rules relate to peer recovery services. Ohio Administrative Code (OAC) 5122-29-15 defines peer recovery services as community-based services for individuals with a mental illness or substance use disorder, and consist of activities that promote recovery, self-determination, self-advocacy, well-being, and independence. OAC 5122-29-15.1 sets forth the requirements for becoming a certified peer recovery service provider. An individual wishing to become certified must pass a background check, obtain training, pass a Department-administered test, and be in recovery themselves.

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<sup>1</sup> OAC 5122-29-15 is being amended by more than fifty percent. Therefore, the Legislative Service Commission requires that the rule be rescinded and replaced with a new rule with the same number.

Peer recovery services were previously not reimbursed by the Ohio Department of Medicaid, but now will qualify as reimbursable services. The Center for Medicare and Medicaid Services requires the Ohio Department of Medicaid to have a certification process in order to be considered a billable service. OhioMHAS worked closely with the Ohio Department of Medicaid to develop the peer recovery certification. It is important to note that the certification is only required in order to be reimbursed by Medicaid. People can continue to provide peer recovery services without the certification, if they do not bill Medicaid.

The six comments received related to a variety of topics. Some comments sought clarification or suggested new language that would provide more clarity, some comments received were in regard to disqualifying criminal offenses for a person seeking certification, and also, some comments pertained to the cost of background checks. OhioMHAS explained that the cost can be up to \$40 and recognized that as an impact and is seeking grant funding to cover the cost of background checks. Amendments were made to the draft language based on the public comments received. On March 18, 2016 OhioMHAS notified CSI that the Department made additional amendments based on comments received from Easter Seals, including adding the crime of human trafficking as a disqualification for certification.

The adverse impacts included in the BIA are the time and costs associated with completing the certification, continuing education requirements, and background checks. Subsequent conversations with OhioMHAS revealed that the Department is not charging each individual a fee to become certified. However, the Department does charge services fees for facilities/providers supplying any OhioMHAS service. The fee schedule is based on a sliding scale which was decided by OhioMHAS and stakeholders. The fee schedule is in OAC 5122-25-08 and not included in this rule package.

After reviewing the proposed rules and associated BIA, the CSI Office has determined the purpose of the rules is justified.

### **Recommendations**

For the reasons discussed above, the CSI Office does not have any recommendations for this rule package.

### **Conclusion**

Based on the above comments, the CSI Office concludes that the Ohio Department of Mental Health and Addiction Services should proceed with the formal filing of this rule package with the Joint Committee on Agency Rule Review.