MEMORANDUM

TO: Tommi Potter, Ohio Department of Medicaid

FROM: Sydney King, Regulatory Policy Advocate

DATE: April 15, 2016

RE: **CSI Review – Managed Care Rule (OAC 5160-26-02, 5160-26-02.1, 5160-26-03, 5160-26-05, 5160-26-08.4, 5160-26-09.1, 5160-26-12, 5160-58-02, 5160-58-02.1, 5160-58-05.3, and 5160-58-08.4)**

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 eleven[1] amended rules being proposed by the Ohio Department of Medicaid (ODM). Rules 5160-58-02.2 determines an individual's eligibility for a MyCare Ohio Waiver and is provided for informational purposes only. The rule package was submitted to the CSI Office on March 17, 2016 and the public comment period was held open through March 24, 2016.

On July 1, 2016, Ohio will replace its two disability determination systems with one system. Currently, according to the Ohio Office of Health Transformation, "Ohioans have to prove they are disabled twice, once to receive Supplemental Security Income (SSI) and again to receive Ohio Medicaid benefits. Under the new system, the definition of disability will stay the same, but

---

[1] Rule 5160-26-02 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 Therefore, the Legislative Service Commission requires that the existing rule be rescinded and replaced by a new rule that has the same rule number.

income and asset limits for Medicaid will increase to match SSI."[2] Because of this transition, it is necessary for Medicaid to update the eligibility and criteria for the managed care health programs. The rules include requirements for eligibility, membership renewal, covered services, provider subcontracting, grievance systems, third party liability and recovery, member co-payments, and incident management systems.

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. The five managed care organzations (AETNA, Buckeye, CareSource, Molina, United Health Care) were consulted directly. According to ODM, the rule was revised based on stakeholder input. For example, amendments were made extending the required timeframe for the incident management system, adding clarifying language regarding oversight of medications or misuse of medications, replacing a nursing code plus modifier, and adding a separate service code for Home Delivered Meals to accommodate differing rates for different meals. One comment was submitted during the CSI public comment period and ODM responded by providing clarification.

ODM identifies managed care programs as the impacted business community. 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 potential sanctions.

In a separate rule package titled "Specialized Recovery Services Program," stakeholders commented on issues relating to incident reporting. Because this rule package regulates the incident systems for MCOs, the CSI Office communicated to ODM that the regulations should be considered in its attempt to address stakeholder concerns for incident reporting.

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.

---

[2] http://www.healthtransformation.ohio.gov/LinkClick.aspx?fileticket=nwrdhnOoQqo%3d&tabid=117