

**MEMORANDUM**

TO: Tommi Potter, Ohio Department of Medicaid

FROM: Chris Smyke, Executive Assistant

DATE: October 28, 2016

RE: **CSI Review – Managed Health Care Programs: Covered Services (OAC 5160-26-03)**

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 amended rule proposed by the Ohio Department of Medicaid (ODM). The rule package was submitted to the CSI Office on October 7, 2016 and the public comment period was held open through October 14, 2016. One comment was received during that time.

Ohio Administrative Code (OAC) 5160-26-03 sets forth the services that must be covered by managed health care programs (MCPs) as well as any exclusions or limitations to these services. The draft rule updates the eligibility criteria for respite, a covered service intended to give short-term relief for the caregivers of children with long-term service and support needs. The rule also extends respite services to children diagnosed with serious emotional disturbance, modifies provider qualifications and adjusts the maximum number of hours of respite allowed annually.

The BIA provides a list of 30 stakeholders that ODM contacted via email for review and explains the feedback received during this early stakeholder outreach. Based on this input, ODM made

changes to the qualifying diagnoses appendix to remove substance use disorders and add several serious emotional disturbance diagnoses. In addition, updates were made to training, supervision and accreditation to include language specific to behavioral health respite providers.

The adverse impact described in the BIA is holding MCPs financially responsible for the payment of certain services including respite for children. In addition, MCPs must establish a process for the submission of claims by non-contracting providers, designate a phone line for provider requests and submit written requests to ODM, contracting providers and members. ODM must pay MCPs rates that are deemed “actuarially sound” by an outside actuary per federal guidelines. As a part of these rates, MCPs will be compensated for the time required to maintain and submit the mandated documents and reports.

The rule also sets forth requirements for both provider agencies and agency employees regarding accreditation, certification, background checks and continuing education. The BIA includes a detailed description of the fees associated with maintaining compliance with each requirement. ODM justifies the adverse impacts by citing the need to comply with federal requirements for covered services and noting that MCPs were aware of such regulations before signing their contracts with the state.

During the CSI public comment period, one comment was received in support of the amended rule with a number suggestions. The Ohio Council of Behavioral Health & Family Services Providers suggested several language changes to provide flexibility for overnight care, permit licensed foster parents as respite providers and add ADHD to the list of serious emotional disorders. ODM responded to this comment by addressing all three points in an appropriate manner; ODM made a language edit based on the first point and justified the existing language on the other two suggestions.

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