

**MEMORANDUM**

TO: Tommi Potter, Ohio Department of Medicaid

FROM: Emily Kaylor, Regulatory Policy Advocate

DATE: September 22, 2016

RE: **CSI Review – Disproportionate Share Hospital Program (OAC 5160-2-08.1 and 5160-2-09)**

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 amended rules proposed by the Ohio Department of Medicaid (ODM) pertaining to the Disproportionate Share Hospital (DSH) program. The rule package was submitted to the CSI Office on September 1, 2016 and the public comment period was held open through September 8, 2016. No comments were received during this time.

The DSH program is federally required to recognize and make payments to qualifying hospitals that offset the cost of Medicaid shortfall and the cost of care to the uninsured. Ohio Administrative Code (OAC) 5160-2-08.1 outlines the calculation used to determine the assessment rate applied to all hospitals. The proposed amendment establishes the assessment rates and the cost levels that fund the Hospital Care Assurance Program (HCAP) for the 2016 and 2017 program years. OAC 5160-2-09 sets forth the distribution formula for the payment policies for the 2016 and 2017 program years, and each year thereafter.

ODM explained in the BIA that the adverse impact is the requirement to pay the assessment on or

before the specified dates and failure to comply results in a penalty of \$1,000 per day. Hospitals will be required to pay approximately \$4 million more than was needed to fund HCAP in 2015 due to an increase in Ohio's federal allotment, but these funds will be used to make DSH payments to acute care hospitals. The proposed amendments were developed in collaboration with the Ohio Hospital Association. No comments were received during the CSI comment period.

Therefore, after reviewing the rule package and accompanying BIA, the CSI Office has determined the purpose of the rules 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.