

**MEMORANDUM**

TO: Tommi Potter, Ohio Department of Medicaid

FROM: Sydney King, Regulatory Policy Advocate

DATE: September 26, 2016

RE: **CSI Review – Advanced Practice Registered Nurse Services (OAC 5160-8-21, 5160-8-22, 5160-8-23, 5160-8-24, 5160-8-25, and 5160-4-04)**

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This rule package consists of one new and five rescinded rules being proposed by the Ohio Department of Medicaid (ODM) pursuant to the five-year review requirement in statute. The rule package was submitted to the CSI Office on March 19, 2015 and the public comment period was held open through March 26, 2015. The CSI Office asked ODM to submit a revised BIA that included an analysis of Rule 5160-4-04 and the revised BIA was submitted on September 9, 2016.

The draft rescinded regulations outlined standards for advanced practical registered nurses, certified nurse practitioners, clinical nurse specialists, and certified nurse midwives that are enrolled as Medicaid providers. The decision to rescind language reflects the input from the Ohio Association of Advanced Practice Nurses (OAAPN). According to the BIA, OAAPN suggested the removal of unnecessary provisions, restrictions, or phrases. The new Rule 5160-4-04 includes language from rules 5160-8-22 and 5160-8-23; as well as new provisions regulating coverage and payment policies for advanced registered practical nurses, certified nurse practitioners, clinical nurse specialists, and certified nurse midwives. Although the draft rescinded rules includes

language that regulates coverage and payment policies, ODM revised the language to simplify and remove non-covered services. Additional rescinded language includes coverage restrictions on initial hospital evaluation, management requiring medical decision-making of high complexity, assistant-at-surgery services, evaluation and management by an advanced practice registered nurse of a patient during initial hospital care, and services provided by a certified nurse midwife. ODM states that the substantive policy changes include simplifying coverage and establishing conditions under which payment for a service may be made.

ODM identifies advanced practice registered nurses which includes certified registered nurse anesthetists, clinical nurse specialists, certified nurse midwives, and certified nurse practitioners in the definition. As mentioned previously, ODM conducted a stakeholder outreach that included representatives of OAAPN and that changes were made to the proposed rules based on the input received. No comments were received during the CSI public comment period. For new Rule 5160-4-04, the adverse impacts include the costs associated with documenting involvement in direct patient care, resubmitting failed claims, and remaining eligible to provide services.

ODM states the regulations remaining after the rescissions are necessary to maintain program integrity and describe the services that will be covered by Medicaid. After reviewing the proposed rules and associated BIA, the CSI Office has determined the purpose of the new rule and the decision to rescind the rules are 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.