

**MEMORANDUM**

TO: Michael Rodgers, Opportunities for Ohioans with Disabilities

FROM: Emily Kaylor, Regulatory Policy Advocate

DATE: February 13, 2017

RE: CSI Review – Fees for Services (OAC 3304-2-52 and Appendix A)

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 and its appendix submitted by Opportunities for Ohioans with Disabilities (OOD). It was submitted to the CSI Office on November 7, 2016 and the comment period closed on November 30. Six comments were received during this time. OOD provided a response letter to the comments on December 23 to CSI and providers. CSI, OOD, and a group of stakeholders met on February 7 to discuss remaining issues.

The rule and appendix set forth the terms and fee schedule for providers to receive reimbursement for service delivery through OOD. A fee schedule for vocational rehabilitation services is required by ORC 3304.15(D). The main changes to the fee schedule surround OOD's decision to implement a performance-based fee structure to align with more than 20 states and the national direction. Additionally, language in the rule regarding maximum fees for certain medical, psychological, and dental services is changed to align with Medicaid's fee schedule.

OOD engaged stakeholders throughout the process. In order to gather and analyze provider data

77 South High Street | 30th Floor | Columbus, Ohio 43215-6117
CSIOhio@governor.ohio.gov

to create the new fee structure, OOD hired a consultant which held focus groups, conducted a survey in which all providers were invited to participate, and held regional forums to share its draft report. OOD staff met with stakeholder associations to gather feedback; after which they drafted the rules, distributed them to providers, and met again with the associations. Based on stakeholder feedback, OOD increased the suggested rates and added flat rates for some services, among other changes described in the attachments to the BIA.

According to the BIA, approximately 250 approved vocational rehabilitation providers will be impacted by this rule package. The adverse impacts include the time and associated costs for a provider to complete services and reports described in the rule. These costs vary depending on the nature and extent of the services provided to the person with a disability. OOD justifies this cost impact by stating that the reimbursement rates are based on fair, cost-informed data; that OOD must be able to account for expenditures to providers with proper documentation; and that it is necessary for providers to receive timely and accurate payments for services.

During the CSI comment period, six comments were received. OOD provided a response letter to providers, but concerns remained. Through phone calls and a meeting with stakeholders and OOD, CSI determined that both are committed to ensuring high-quality service delivery to Ohioans with disabilities and ensuring that providers are appropriately reimbursed for the eligible services they provide. While there are remaining concerns from providers regarding the fee schedule, OOD has provided a spreadsheet showing positive impacts on providers if their 2016 billing data were implemented under the proposed fee schedule. OOD has extended offers to sit down individually with providers to go over their projections and explain the fee schedule's impact. Additionally, they have committed to ensuring that the new fee schedule not have a negative impact on high-quality service delivery to Ohioans. In doing so, CSI recommends, and OOD has agreed to engage stakeholders in communication following the implementation of the rule to ensure that service delivery is maintained. The new fee schedule will also mean that OOD has to develop new reporting forms, so they have committed to engaging stakeholders in this development to ease the transition to the new system.

Many commenters were also concerned about the 21-day billing cycle change. In the current rule, there is a 15-day requirement for providers to report and invoice OOD for services rendered. OOD accepts reports and invoices past this date but is concerned that extending it may lead to gaps in services due to a delay in OOD authorizations. Through stakeholder meetings, OOD discovered there was confusion as to whether the 15-day requirement applied to calendar or business days. Because of this, OOD has changed the rule to provide a 21 calendar day requirement for reports and invoices. However, there was some language that seemed to be in conflict with another rule, OAC 3304-1-13, which establishes a 90-day ceiling for submitting a bill. After bringing this to OOD's attention, OOD informed CSI that it will delete this confusing language as it was not aligned with their intent in the rule.

Recommendation

For the reasons explained above, the CSI office recommends that OOD:

1. Remove the language on page 6 of Appendix A that creates confusion regarding the billing cycle,
2. Conduct a thoughtful review of the fee schedule's implementation after the rule is effective to ensure that access to high-quality services for disabled Ohioans is maintained, and
3. Engage stakeholders to streamline the new reporting forms that will align with the proposed fee schedule.

Conclusion

Based on the above comments, the CSI Office concludes that Opportunities for Ohioans with Disabilities should proceed with the formal filing of this rule package with the Joint Committee on Agency Rule Review and implement the above recommendations.