

**MEMORANDUM**

**TO:** Tommi Potter, Ohio Department of Medicaid

**FROM:** Emily Kaylor, Director of Regulatory Policy

**DATE:** April 14, 2017

**RE:** **CSI Review – State Plan Home Health Private Duty Nursing (OAC 5160-12-01, 5160-12-02, and 5160-12-02.3)**

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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 three amended rules proposed by the Ohio Department of Medicaid (ODM) pertaining to home health and private duty nursing. The rule package was submitted to the CSI Office on March 21, 2017 and the public comment period was held open through March 28. Three comments were received during this time. A revised BIA was submitted on March 23, responses to comments were provided on April 7, and updated rules were sent on April 12.

The rules are being amended to allow home health services to be provided outside of the place of residence such as in a vehicle, allow the Department of Developmental Disabilities (DODD) to prior authorize private duty nursing services for individuals enrolled on a ODM waiver administered by DODD, clarify language, correct citations, update terminology to ensure consistency with other Medicaid rules, and fix typographical errors.

The adverse impacts of the rules could affect approximately 800 certified home health providers, 100 other accredited agencies, 2,600 independent nurses, and 125 individuals enrolled on an

ODM home and community-based service waiver administered by DODD. The BIA details the impacts of each rule which generally are reporting requirements that will take employee time. Allowing for home health services to be provided outside of the residence may require the certified home health agencies to have automobile and liability insurance for their employees who transport individuals, which ODM cited an average cost of \$475 from a report by the National Association of Insurance Commissioners. ODM also provided hourly estimates for costs associated with securing necessary signatures and updating plans of care. The Department justifies these costs as some requirements are necessary to comply with federal code and others to ensure that home health and private duty nursing services are provided by qualified individuals meeting the needs of Medicaid recipients.

According to the BIA, ODM engaged stakeholders through the Ohio State Plan Services Workgroup, which were supportive of the proposed changes. During the CSI review, three comments were submitted and the Department shared their responses on April 7. ODM revised the rules based on one of the comments and submitted those revisions to CSI. Two comments, one from a managed care plan and one from a registered nurse, asked clarifying questions to which the Department responded appropriately.

After reviewing the proposed rules and 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.