

**MEMORANDUM**

TO: Tommi Potter, Ohio Department of Medicaid

FROM: Emily Kaylor, Regulatory Policy Advocate

DATE: January 26, 2017

RE: **CSI Review – Evaluation and Management Services (OAC 5160-4-06 and 5160-4-06.1)**

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This rule package consists of two rules – one amended¹ and one rescinded – proposed by the Ohio Department of Medicaid (ODM) pertaining to evaluation and management services. ODM indicated that the rescinded rule did not have adverse impacts and was being included for informational purposes. However, adverse impacts were identified in the existing rule so it was included in the package for review. The rule package was submitted to the CSI Office on January 5, 2017 and the public comment period was held open through January 12. No comments were received during this time.

The amended rule includes pieces from both of the rules. It details coverage and payment policies for evaluation and management services including after-hours care, consultation, critical-care, and hospital encounters. The previous rules only referred to physicians, but the amended rule updates

¹ OAC 5160-4-06 is amended to the extent that the Legislative Service Commission requires the Department to rescind the rule and replace it with a new rule of the same number.

the care providers to reference “practitioners” in order to include other medical professionals practicing within their scope such as advanced practice registered nurses and physician assistants. Additionally, unnecessary or duplicative language was removed.

ODM explained in the BIA that the only adverse impact is the documentation requirements for the medical practitioners in order to receive Medicaid payment. This documentation is typical of what must be included in a patient’s medical file so there is no additional burden.

ODM distributed the rules to Medicaid managed care plans and 20 provider associations for their early stakeholder outreach. They received a clarifying question and responded, but did not receive any specific concerns or suggestions for the amended rule. No comments were received during the CSI review period.

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.