

**MEMORANDUM**

**TO:** Bryan Stout, Ohio Department of Medicaid

**FROM:** Tess Eckstein, Regulatory Policy Advocate

**DATE:** March 27, 2017

**RE:** **CSI Review – PASSPORT Shared Living Service (OAC 5160-31-07)**

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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 one amended rule being proposed by the Ohio Department of Medicaid (ODM). The rule package was submitted to the CSI Office on March 2, 2017, and the comment period remained open until March 9, 2017.

Rule 5160-31-07 describes methods used to determine provider rates for all covered services available through the pre-admission screening system providing options and resources today (PASSPORT) home- and community-based services (HCBS) Medicaid waiver program. The amendment being proposed establishes a statewide rate-setting methodology for shared living, a new PASSPORT waiver service. On October 7, 2016, the CSI Office approved this same revision to rule 5160-31-07 as part of another rule package. Subsequently, after CSI approval but before the Joint Committee on Agency Rule Review (JCARR) reviewed the package, the rule was revised to remove all references to the new shared living service due to the postponement of the addition of the new service to the PASSPORT waiver.

The rule impacts the Ohio Department of Aging's (ODA) designees: 13 PASSPORT Administrative Agencies (PAA), agency providers, consumer-directed individual providers (CDIP) of personal care services, and agency providers of the new shared living service. Potential adverse impacts of the rule include requesting enhancements for billing software changes within home health agencies. During its review process, the CSI Office also identified an additional adverse impact, as there is an impact

imposed on an individual's case manager, since the case manager must review all negotiated rates.

Time spent by a PAA to enter into contract with a new provider, as well as time required to negotiate unit rates of home medical equipment and to document on a person-centered service plan, is covered by administrative funding provided by ODM to the PAAs for these activities. ODM also supplies waiver case management funding to the PAAs. Both funding streams support provider quality assurance processes. In addition, the BIA claims that the rule is justified because it ensures transparency, program integrity, and accountability. Accessibility of information helps the regulated community make an informed decision about participation in the PASSPORT program, and allows it to remain current on rate methodologies. Furthermore, the regional rate contracting process documents billing maximums, and the signed agreement process outlines the relationship between employer and employee in the event that an individual elects self-direction.

In August 2016, ODM contacted members of the ODM HCBS Rules Workgroup requesting review of the amended rule. In January 2017, after the aforementioned revision to the rule was proposed subsequent to the CSI Office approving the rule for filing with JCARR, members of the ODM HCBS Rules Workgroup were notified and again asked to provide feedback. No comments were submitted expressing concern with the rule. Similarly, no comments were submitted during the CSI public comment period. Therefore, the CSI Office has determined the purpose of the rule to be justified.

### **Recommendations**

For the reasons discussed above, the CSI Office does not have any recommendations for 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.

cc: Mark Hamlin, Lt. Governor's Office