

**MEMORANDUM**

TO: Tommi Potter, Ohio Department of Medicaid

FROM: Emily Kaylor, Director of Regulatory Policy

DATE: July 14, 2017

RE: **CSI Review – Freestanding Birth Centers (OAC 5160-18-01 and 5160-4-36)**

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This rule package consists of two rules – one amended¹ and one rescinded – proposed by the Ohio Department of Medicaid (ODM) for the statutorily-required five-year review. The rule package was submitted to the CSI Office on April 27, 2017 and the public comment period was held open through May 4, 2017. No comments were received during this time.

Ohio Administrative Code (OAC) 5160-4-36 is being rescinded and incorporated into OAC 5160-18-01 as it pertains to the covered services for freestanding birth centers. ODM notes two significant changes to the rules in the BIA pertaining to requirements of the Social Security Act and an appendix update.

ODM reached out to associations related to birth centers and to individual birth centers in the state. Some of the comments received addressed licensure concerns, so ODM forwarded those to

¹ OAC 5160-18-01 is being 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 rule number.

the Department of Health which licenses freestanding birth centers. Others expressed concern that ODM's payment rates are significantly lower than other states. ODM replied that they have updated payment rates to align with the approved federal state plan and do not propose further increases at this time. No comments were received during the CSI public comment period.

The rules impact freestanding birth centers and providers who perform services in these centers, such as physicians and certified nurse midwives. OAC 5160-18-01 requires providers to have a current license to practice which requires time and money, but is not a fee set in this rule as they are not licensed by Medicaid. Freestanding birth centers are licensed by the Department of Health which requires a \$300 application fee annually and an annual inspection fee of \$1,750. The BIA notes there are also costs associated with the time necessary to fill out the paperwork for licensure and recordkeeping.

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.