

**MEMORANDUM**

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

**FROM:** Travis Butchello, Regulatory Policy Advocate

**DATE:** April 28, 2017

**RE:** **CSI Review – Physician Services (OAC 5160-4-01)**

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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<sup>1</sup> rule proposed by the Ohio Department of Medicaid (ODM) for review under the statutory five-year rule review requirement. The rule package was submitted to the CSI Office on April 7, 2017 and the public comment period was held open through April 14, 2017. No public comments were received during this time.

Ohio Administrative Code (OAC) 5160-4-01 defined professional medical groups, ambulatory health care clinics, federally qualified health centers, outpatient health facilities, and rural health clinics as providers of physician services. The new amended rule removes those provisions and defines the term “physician services” as only services provided by physicians as defined by the Centers for Medicare and Medicaid Services. The omitted terms are referenced in another section within chapter and have been removed from 5160-4-01 to decrease redundancy. As stated in the BIA, the purpose of the regulation is to establish and update coverage and payment policies

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<sup>1</sup> OAC 5160-4-01 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.

for medical goods and services as well as set limits on the types of entities who are eligible for reimbursement by Medicaid.

ODM explained in the BIA that the draft rule was sent to 20 provider associations and 5 Medicaid managed care plans in October 2016. During the early stakeholder outreach process, one organization requested clarification as to whether physician assistants would still be eligible for reimbursement. ODM replied that while references to physician assistants were removed from OAC 5160-4-01, they would be referenced under OAC 5160-4-03 and qualify for reimbursement. No comments were received during the CSI public comment period.

The rule impacts physicians and non-physician providers of medical, surgical, radiological, and imaging services throughout Ohio. In order for providers to receive reimbursement by Medicaid, they must enroll as a Medicaid provider. ODM states in the BIA that the regulations are justified because Medicaid is only authorized to make direct payment to enrollees in the program and federal law does not permit Medicaid to compensate providers who choose not to participate.

### **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.