

**MEMORANDUM**

TO: Tommi Potter, Ohio Department of Medicaid

FROM: Travis Butchello, Regulatory Policy Advocate

DATE: July 6, 2017

RE: **CSI Review – Nursing Facility Personal Needs Allowance (OAC 5160-3-16.5)**

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 proposed by the Ohio Department of Medicaid (ODM) as part of the statutory five-year rule review requirement. The rule package was submitted to the CSI Office on May 22, 2017 and the public comment period was held open through May 28, 2017. No comments were received during this time.

The rule contains provisions for the management of nursing facility personal needs allowance accounts and is being amended to update cross references, change dates and terms, and provide clarifications. In addition, the rule is also being amended to include language so that a nursing facility provider who operates multiple facilities need only submit copies of the multi-facility surety bond or reasonable alternative for review. ODM states in the BIA that the purpose of the rules is to implement federal resident rights regulations pertaining to resident funds and to ensure nursing facility residents have access to their personal funds pursuant to federal law.

ODM explained in the BIA that it contacted Ohio's three nursing facility provider associations as part of the early stakeholder outreach process so that each organization had the opportunity to

review the draft rule and provide any input or suggestions. No comments were offered during this outreach and no public comments were received during the CSI public comment period.

The rule impacts the approximately 960 nursing facilities in Ohio who choose to participate in the Medicaid program. Compliance with the Medicaid program requirements imposed through this rule are mandatory and may result in administrative costs such as depositing of funds into a resident's account, establishment of a system that ensures full and complete accounting of residents account funds, printing of receipts, and maintaining a ledger of account revenue and expenses for each resident account. In addition, nursing facilities will be responsible for drafting reports to any applicable state agencies when needed and issuing a quarterly report to each resident or resident's representative of all financial transactions made by the provider on the resident's behalf. ODM estimates that nursing facility staff could spend approximately two hours a day completing all duties required under the rule and believes that the regulatory purpose of the rule outweighs any adverse impact because all requirements are needed to ensure compliance with federal law.

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.