

**MEMORANDUM**

TO: Tommi Potter, Ohio Department of Medicaid

FROM: Christopher Smyke, Regulatory Policy Advocate

DATE: September 15, 2017

RE: **CSI Review – Advanced Practice Registered Nurse (APRN) Services (OAC 5160-4-04)**

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). The rule package was filed with the CSI Office on July 14, 2017 and the public comment period was held open until July 21, 2017. No comments were submitted during the CSI public comment period.

Ohio Administrative Code (OAC) 5160-4-04 sets the regulations for coverage and claim payments for services rendered by Advanced Practice Registered Nurses (APRNs). APRNs are defined in this rule to encompass certified registered nurse anesthetists (CRNA), clinical nurse specialists (CNS), certified nurse-midwives (CNM), and certified nurse practitioners (CNP). The proposed amendment to the rule would clarify the existing policy that reimbursement for assistant-at-surgery services provided by a CNS, CNM, or CNP is capped at 25% of the Medicaid maximum for the covered primary surgical procedure. On September 12, 2017 ODM clarified for CSI staff that the "existing policy" that prompted this rule change was a recent update to OAC 5160-4-22 regarding co-surgery services. ODM felt the need to distinguish the claim rates between assistant-at-surgery services, wherein an APRN assists a surgeon during a procedure, and co-surgery services, when

one procedure requires two surgeons of different specialties.

On March 20, 2017 ODM contacted the Ohio Association of Advanced Practice Nurses (OAAPN). OAAPN did not express any concerns over the proposed rules, so no changes were made to the rules following early stakeholder engagement. In addition, no comments were received during the CSI public comment period.

The BIA identifies APRNs as those impacted by the rules, including CRNA, CNS, CNM and CNP who provide services to Medicaid recipients. Provision (B)(2)(a) requires an APRN to be enrolled as an Ohio Medicaid provider, which involves an application fee to the organizational provider, which the BIA estimates at \$560 per application. In addition, a CSI recommendation was issued during a five-year review of OAC 5160-4-04 on September 26, 2016 which observed potential adverse impacts to include the “costs associated with documenting involvement in direct patient care, resubmitting failed claims, and remaining eligible to provide services”. However, due to its clarification of existing policy, the proposed amendment to the rule has no net effect on the adverse impact to business.

After reviewing the proposed rules and the BIA, the CSI Office has determined that the rule satisfactorily meets the standards espoused by the CSI Office, and the purpose of the rule package is 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: Emily Kaylor, Lt. Governor’s Office