

**MEMORANDUM**

TO: Tommi Potter, Ohio Department of Medicaid

FROM: Christopher Smyke, Regulatory Policy Advocate

DATE: October 17, 2017

RE: **CSI Review – Medicaid Managed Care Program (OAC 5160-26-02, 5160-26-03, 5160-26-3.1, and 5160-26-09)**

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 four amended rules proposed by the Ohio Department of Medicaid (ODM) for its statutorily required five-year review. The rule package was submitted to the CSI Office on September 21, 2017 and the public comment period was held open through September 28, 2017. One comment was received during that time.

All four of the rules in this package relate to Managed Care Plans (MCPs), which along with MyCare Ohio Plans (MCOPs) provide services to 86% of Medicaid recipients in Ohio. The rules govern MCPs with respect to eligibility, enrollment, covered services, primary care, utilization management, payment to MCPs, and financial responsibility. The amended rules contain substantive updates to ODM administrative policy, including updates to prior authorization language, requirements for medical necessity and reimbursement for emergency services, payment for stays in an institution for mental disease when a member is no longer eligible for enrollment in the MCP, and an allowance for plans to authorize additional hours for respite services with prior authorization of medical necessity. The proposed amendments also include a

number of non-substantive changes, including grammatical/technical edits, clarifications and moving of existing language, removal of duplicative language, and reference updates to federal regulations.

ODM contacted the six MCPs and MCOPs in Ohio and furnished them with draft rules in order to solicit feedback; the rules were also reviewed at a meeting on August 29, 2017. No comments were received during early stakeholder outreach, so no changes were made to the draft rules. One comment was received during the CSI public comment period from Ohio Office of the State Long-Term Care Ombudsman, expressing support for the rule revisions.

The BIA identifies the impacted business community as the six MCP/MCOPs: Aetna, Buckeye Health Plan, CareSource, Molina Healthcare of Ohio, Paramount Advantage, and UnitedHealthcare Community Plan of Ohio. In addition, the rule may impact certain MCP and MCOP providers. Per federal rule, Medicaid must reimburse MCPs and MCOPs by an actually sound capitation rate to cover costs including expected health benefits, health benefit settlement expenses, administrative expenses, the cost of capital and government mandated assessments, fees, and taxes.

The rules hold MCPs financially responsible for the payment of certain services, which requires the establishment for a process for the submission of claims, a telephone line to receive provider requests for coverage of services, and the submission of written requests/notifications to ODM, recipients of care, and contracted providers. In addition, providers of respite services for children must comply with requirements such as holding a valid accreditation, completing a background check, and certification through Ohio Mental Health and Addiction Services. MCPs must also carry out a set of duties in relation to utilization management, as detailed by the BIA, to include sharing information with ODM, maintaining records, and implementing written policies and procedures. Ohio Administrative Code 5160-26-09 directs MCPs to submit certain financial documents to ODM, including audited financial statements, physician incentive program disclosure statements, and reinsurance documentation.

The BIA justifies these rules with the need to ensure the rights and protections of recipients of Medicaid through MCPs. The rules also ensure that providers are appropriately paid for services rendered and to maintain compliance with Federal regulations that govern Medicaid managed care. After reviewing the proposed rule package and the BIA, the CSI Office has determined that the rules satisfactorily meet the standards espoused by the CSI Office, and the proposed amendments are justified.

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.

CC: Emily Kaylor, Lt. Governor's Office