MEMORANDUM

TO: Tommi Potter, Ohio Department of Medicaid

FROM: Christopher Smyke, Regulatory Policy Advocate

DATE: October 17, 2017

RE: **CSI Review – Managed Care-MyCare Ohio (OAC 5160-58-01.1, 5160-58-02.1, and 5160-58-03)**

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 three amended rules proposed by the Ohio Department of Medicaid (ODM) for their 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. No comments were received during that time.

The three rules in this package relate to MyCare Ohio Plans (MCOPs), managed care programs that are aimed at providing integrated care for individuals who are eligible for both Medicaid and Medicare. Specifically, the rules govern the application of managed care rules to the MCOPs, reasons for and the process of termination of enrollment, and the services that must be covered by MCOPs. Substantive rule changes based on ODM administrative policy include updates to prior authorization, updates to terminology for developmental disabilities level of care and intermediate care facilities, a minor change to just cause for terminating enrollment, and the addition of provisions to address emergency services, as well as stays in an institution for mental disease when a member is no longer eligible for enrollment in the MCOP. In addition, the proposed rules

include non-substantive grammatical/technical edits and elimination of duplicative language.

ODM contacted the six Managed Care Plans (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. No comments were received during the CSI public comment period.

These rules impact the MCOPs in Ohio, which include Aetna, Buckeye Health Plan, CareSource, Molina, and UnitedHealthcare. Per federal rule, Medicaid must reimburse MCPs and MCOPs by an actuarially 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 require MCOPs to notify members of insufficient information to make a prior authorization decision on a covered outpatient drug within 72 hours. MCOPs are required to provide documentation when a member requests a termination of enrollment for just cause and MCOPs are required to request termination of a member who is uncooperative, disruptive, or who acts fraudulent. The rules also require MCOPs to establish a process in writing for the submission of claims from non-contracting providers and maintain record of any requests for coverage of post-stabilization services.

The BIA justifies the impacts by citing the health and safety of MCOP members, as well as the need to abide by federal regulations regarding managed care programs and covered services. The BIA notes that MCOPs were aware of these federal requirements prior to signing their contracts with the state. 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 rule package is 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