

**MEMORANDUM**

TO: Tommi Potter, Ohio Department of Medicaid

FROM: Travis Butchello, Regulatory Policy Advocate

DATE: April 13, 2018

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

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 two amended rules proposed by the Ohio Department of Medicaid (ODM). The rule package was submitted to the CSI Office on March 21, 2018 and the public comment period was held open through March 28, 2018. One comment was received during this time and CSI received the comment response on April 3, 2018.

Ohio Administrative Code (OAC) 5160-26-02 sets forth the eligibility criteria for individuals who are enrolled in the managed care program and participate in the enrollment process. ODM wishes to clarify policy related to the administration of the program and made organizational, grammatical, and definitional changes to the rule. OAC 5160-26-03 describes services that must be covered by managed care plans and addresses exclusions and limitations for specific services. ODM wishes to amend the rule to include the implementation of the behavioral health carve-in, which will become effective July 1, 2018. Other changes to the rule included organizational and terminology changes to easily implement the behavioral health requirements with existing rule language.

As part of the early stakeholder outreach process, ODM provided all five managed care health plans and Aetna with a copy of the draft rules on March 5, 2018 and were given until March 9, 2018 to comment. No comments were received upon the conclusion of the outreach process.

One comment was received during the CSI public comment period. The commenter simply requested whether the rule had an attached appendix as one is referenced in the draft rule. ODM replied that an appendix does exist and provided the commenter with a copy that will be included in the filing.

The rules impact managed care insurers in Ohio. Adverse impacts created by the rules include financial responsibility for payment of certain services, administrative reporting, and accreditation by applicable state and federal entities. In addition and in accordance with existing requirements, managed care plans must enter into a provider agreement with the state which costs \$554 that must be renewed every 5 years. Further, there will be associated costs with staffing requirements where the provider will incur a background check fee of \$22 to \$24 dollars for each employee. ODM contends that the regulatory intent of the rules outweighs any adverse impact because managed care plans were aware of federal requirements for covered services prior to signing their contracts with the state and without the requirement of such services, the state would be in violation of 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.