

**MEMORANDUM**

**TO:** Tom Simmons, Ohio Department of Aging

**FROM:** Jacob Ritzenthaler, Regulatory Policy Advocate

**DATE:** October 15, 2018

**RE:** **CSI Review – One Set of Standards for Six Services (OAC 173-39-02.6, 173-39-02.9, 173-39-02.14, 173-39-02.22, 173-39-02.23, and 173-39-02.24)**

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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 six amended<sup>1</sup> rules proposed by the Ohio Department of Aging (ODA). The rule package was submitted to the CSI Office on September 11, 2018 and the public comment period was held open through September 18, 2018. No comments were received during this time.

The rules in this chapter set forth requirements for service standards for Medicaid-based waiver services through ODA. Service providers regulated by these rules participate in the Preadmission Screening System Providing Options and Resources Today (PASSPORT) Program. The rules in this package are being updated to create a single set of service standards for services delivered through the Department. Ohio Administrative Code (OAC) 173-39-02.6 sets forth requirements for

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<sup>1</sup> OAC 173-39-02.6, 173-39-02.9, 173-39-02.14, 173-39-02.22, 173-39-02.23, and 173-39-02.24 are being amended to the extent that the Legislative Service Commission requires the Department to rescind the rules and replace them with new rules of the same rule number.

personal emergency response systems and is being amended to match the standards for these systems found in the new Medicaid rule OAC 5160-44-16. OAC 173-39-02.9 establishes requirements for providers of minor home maintenance, modification, and repair. The rule is being amended to comply with the definition of minor home modification located in OAC 5160-44-13. OAC 173-39-02.14 sets forth requirements for home-delivered meals and is being amended to include definitions and standards found in OAC 5160-44-11. OAC 173-39-02.22 details the standards for waiver nursing services and is being amended to include definitions and standards for practice found in OAC 5160-44-22. OAC 173-39-02.23 sets forth requirements for out-of-home respite care and is amended to include standards found in OAC 5160-44-17. OAC 173-39-02.24 establishes requirements for home attendant care services and is being amended to include the standards found in OAC 5160-44-27.

During early stakeholder outreach, ODA held workshops and sent the rules to relevant industry stakeholders, including providers, professional associations, and other interested parties. The comments received from stakeholders supported the move to develop one set of standards for the six services regulated by the rules. No comments were received during the CSI public comment period.

The business community impacted by these rules includes ODA-certified providers of services through the PASSPORT Program. ODA states in the BIA that there are 56 providers of personal emergency response systems, 118 providers of home modifications, 94 providers of home-delivered meals, and 166 providers of waiver nursing services. There are currently no ODA-certified providers of out-of-home respite care or home care attendant services. The adverse costs created by the rules include an update to the rates for services that lowers the maximum billable amount for services. ODA states in the BIA that the average amount billed per unit of each service is significantly lower than the maximum billable amount. After reviewing the proposed rules and the BIA, the CSI Office has determined that the rules satisfactorily meet the standards espoused by the CSI Office, and the purpose of the rule package is justified.

### **Recommendations**

For the reasons described above, the CSI Office has no recommendations on this rule package.

### **Conclusion**

Based on its review of the proposed rule package, the CSI Office recommends the Ohio Department of Aging should proceed in filing the proposed rules with the Joint Committee on Agency Rule Review.