

**MEMORANDUM**

**TO:** Tommi Potter, Ohio Department of Medicaid

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

**DATE:** October 26, 2018

**RE:** **CSI Review – Various Nursing Facility Rules (OAC 5160-3-16.3)**

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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 contains one amended rule proposed by the Ohio Department of Medicaid (ODM) as part of the statutory five-year review requirement. The rule package was submitted to the CSI Office on July 6, 2018 and the public comment period was held open through July 13, 2018. No public comments were received during this time.

Ohio Administrative Code (OAC) 5160-3-16.3 sets forth requirements for private rooms in nursing facilities within the state. The rule establishes the provision of private rooms based on medical necessity and the payment through Medicaid for private or semi-private rooms. The rule is being amended to include clarifications to the language regarding the family of a resident and patient liability.

During early stakeholder outreach, ODM sent the rule to nursing facility provider associations for feedback. During this time and the CSI public comment period, no comments were received from stakeholders.

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The business community impacted by this rule includes approximately 950 nursing facilities participating in the Medicaid program. The adverse cost created by the rule includes time spent by nursing facility staff recording supplemental payments and patient requests for private rooms. In addition, the rule states that, if semi-private or ward accommodations are not available, Medicaid shall only reimburse facilities at the per diem rate the facility receives for accommodations. ODM states in the BIA that this rule helps provide guidance for nursing facilities in providing private rooms in cases of medical necessity, such as preventing the spread of infection, and payment structures for the provision of private accommodations. After reviewing the proposed rule 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 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 Medicaid should proceed in filing the proposed rules with the Joint Committee on Agency Rule Review.