



## Common Sense Initiative

**Mike DeWine**, Governor  
**Jon Husted**, Lt. Governor

**Carrie Kuruc**, Director

### MEMORANDUM

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

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

**DATE:** April 16, 2019

**RE:** **CSI Review – Home and Community-Based Services Waiver Alignment: Phase 2 (OAC 5160-44-12, 5160-44-14, 5160-44-26, and 5160-46-04)**

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On behalf of Lt. Governor Jon Husted, 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 new rules and one amended rule proposed by the Ohio Department of Medicaid (ODM). ODM submitted the rule package to the CSI Office on February 26, 2019 and held the public comment period open through March 5, 2019.

The rules in this package are part of an ongoing effort to align the rules regulating home and community-based services (HCBS) waivers administered through ODM and the Ohio Department of Aging (ODA). Ohio Administrative Code (OAC) 5160-44-12, 5160-44-14, and 5160-44-26 are new rules that address home maintenance and chore services, community integration services, and community transition services. Home maintenance and chores services can include certain repairs, household cleaning, and non-routine garbage and pest disposal. Community integration and transition services can include assistance with independent living tasks and the initial costs of living expenses. The rules also include requirements for providers regarding service provision and recordkeeping. OAC 5160-46-04 details the definitions used in relation to the Ohio Home Care Waiver. The rule is being amended to include language that addresses the inclusion of home maintenance and chore services in OAC 5160-44-12.

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During early stakeholder outreach, ODM discussed the proposed rules during monthly meetings of the HCBS Rules Workgroup, which consists of industry stakeholders. ODM also sent the rules to interested parties via email. ODM states in the BIA that suggestions from stakeholders were implemented into the rules. No comments were received during the CSI public comment period.

The business community impacted by these rules includes all agencies and individuals providing home care services under ODM-administered waivers. ODM estimates that these populations include 3,879 personal care aides, 1,641 nurses, 54 home care attendants, 735 home health agencies, 578 service providers, and 61 otherwise accredited agencies. The adverse cost created by these rules includes maintaining certification through ODM or ODA, the requirements of which can vary depending on the type of service being provided. OAC 5160-46094 requires agencies to complete Medicare certification and provider agreements, which represents a significant investment of time from agency personnel. The cost of revalidating a provider agreement costs \$569 and must be revalidated every five years, in addition to completing an on-site survey every three years. ODM states that the estimated cost to complete training and competency testing for 10 personal care aides costs approximately \$2,700. Continuing education costs for a similar group would cost \$1,800 and first aid training would cost \$400. Providers that do not comply with the requirements of the rules may have their certification revoked. ODM states in the BIA that the rules in this package help assure the quality of services provided to HCBS waiver participants, as required by state and federal statute.

### **Recommendations**

Based on the information above, the CSI Office has no recommendations on this rule package.

### **Conclusion**

The CSI Office concludes that the Ohio Department of Medicaid should proceed in filing the proposed rules with the Joint Committee on Agency Rule Review.