



Common Sense Initiative

Mike DeWine, Governor
Jon Husted, Lt. Governor

Carrie Kuruc, Director

MEMORANDUM

TO: Tommi Potter, Ohio Department of Medicaid

FROM: Paula Steele, Common Sense Initiative

DATE: September 12, 2019

RE: **CSI Review – PASRR (OAC 5160-3-15.1, 5160-3-15.2, 5160-3-15)**

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This rule package consists of six rules, three rescinded rules replaced by three new rules, and is being proposed by the Ohio Department of Medicaid (ODM) pursuant to the five-year review required by statute. The rule package was submitted to the CSI Office on July 24, 2019 and the public comment period was held open through July 31, 2019. One stakeholder provided comments during this time. Unless otherwise noted below, this recommendation reflects the version of the proposed rules filed with the CSI office on July 24, 2019.

The draft rules concern Preadmission Screening and Resident Review (PASRR) as required by Chapter 42 of the Code of Federal Regulations. PASRR is a process in which individuals are screened for serious mental illness (SMI) or developmental disabilities (DD) to ensure that Medicaid-certified nursing facilities appropriately place and provide necessary services to individuals with those conditions.

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Ohio Administrative Code (OAC) 5160-3-15 provides definitions used for the PASRR and other nursing facility screening rules. The draft rule is being updated for accuracy, clarity and to comply with federal regulations in effect January 1, 2019.

The proposed rule OAC 5160-3-15.1 prescribes the Level I screening and Level II evaluation pre-admission requirements. Level I is an initial screening for a SMI or DD that must be performed on all individuals seeking new admission to a Medicaid-certified nursing facility. If the Level I screening indicates the individual has a SMI or DD, the individual is referred to Ohio Department of Mental Health and Addiction Services or the Ohio Department of Developmental Disabilities for a Level II in-depth evaluation. Both levels are required by federal regulations.

Draft rule OAC 5160-3-15.2 prescribes resident review requirements. The draft rule prohibits Medicaid-certified nursing facilities from retaining individuals who have a serious mental illness or developmental disability unless an evaluation has determined such placement is appropriate and adequate. A resident review is required when an individual's condition significantly changes.

OAC 5160-3-15.1 and 5160-3-15-2 are being updated primarily to comply and align with January 1, 2019 federal regulations. In addition, the draft rules are being amended from having the option to electronically submit screenings and reviews, to requiring electronic submission of the information to increase efficiency and reduce error. The CSI Office followed-up with ODM to inquire about the "electronic system designated by ODM." According to ODM, the electronic system is a web-based platform owned by ODM. There is no charge for providers to use the electronic system.

During the rule review process, ODM coordinated with the Ohio Departments of Developmental Disabilities, Mental Health and Addiction Services, Health, Aging and three nursing facility provider associations to solicit feedback that was incorporated into the proposed rules. During the public comment period, a stakeholder expressed concern that the ODM rules precluded community agencies from electronically filing pre-admission screenings. ODM responded that while federal regulations make it the responsibility of the Medicaid-certified nursing facility to ensure screening is completed, and community agencies are not required to file pre-admission screenings, they are currently able to via the Department of Aging's Healthcare Electronic Notification System (HENS).

Approximately 970 Medicaid-certified nursing facilities in Ohio are impacted by the proposed rules. The nursing facilities must comply with federal regulations that require the PASRR process or the facilities could lose Medicaid provider agreements. Screenings and resident reviews are identified in the BIA as the adverse impact to business. ODM had previously estimated it takes 30-60 minutes to complete the Level I screening and resident review forms. ODM estimated the cost

of manually completing a Level I screening ranged from \$21 to \$31 per screening and manual completion of the resident review form cost ranged from \$31 to \$41 per review. ODM believes that electronic submissions reduce the time spent on manual submissions by fifty percent. In addition, nursing facilities will receive instant determinations for those who do not show evidence of a SMI or DD, or instant referrals to Ohio Department of Developmental Disabilities or the Ohio Department of Mental Health and Addiction Services.

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.