



## 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:** November 13, 2019

**RE:** **CSI Review – Provider Screening and Application Fee (OAC 5160-1-17.8)**

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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 one amended rule proposed by the Ohio Department of Medicaid (ODM). This rule package was submitted to the CSI Office on September 17, 2019 and the public comment period was held open through September 24, 2019. Unless otherwise noted below, this recommendation reflects the version of the proposed rules filed with the CSI office on September 17, 2019.

Ohio Administrative Code (OAC) 5160-1-17.8 sets forth the screening process for becoming an eligible provider through Ohio's Medicaid program. The rule is being amended to include provisions that exempt certain groups from exclusionary periods and disqualify applicants based on their presence on certain lists, such as abuser registries or exclusion lists maintained by other agencies. The amendments also remove language that concerns the denial of a pardon.

During early stakeholder outreach, ODM sent the rules to relevant stakeholders for feedback, including the Ohio County Behavioral Health Authorities, the Ohio Council of Behavioral Health & Family Services Providers, the Governmental Policy Group, and the Ohio Poverty Law Center.

77 SOUTH HIGH STREET | 30TH FLOOR | COLUMBUS, OHIO 43215-6117

[CSIPublicComments@governor.ohio.gov](mailto:CSIPublicComments@governor.ohio.gov)

During this time, comments were received from one stakeholder that suggested changes to the rule regarding exempted providers, disqualifying conditions, and clarifying edits. ODM made changes to the list of exempted providers but did not implement the suggested changes to the disqualifying conditions, citing the seriousness of the criminal offences involved. During the CSI public comment period, ODM received several comments from stakeholders regarding the exclusionary period prescribed by the rule. Stakeholders stated that the starting date of the exclusionary period would divert potential applicants away from becoming providers. ODM responded to the stakeholders and expressed interest in discussing potential changes to the rule in future revisions. ODM did not make changes to the rule as the rule must go into effect in order to supersede the emergency rule it is replacing.

The business community impacted by the rule includes all eligible Medicaid providers in Ohio. The adverse costs created by the rule include application fees, the cost of completing a background check, and other documentation and record keeping efforts. The provider application fee is \$586, unless a provider meets certain qualifications for exemption. The cost of obtaining a fingerprint-based background check with the Ohio Bureau of Criminal Investigation and the Federal Bureau of Investigation is \$60. ODM states that the rule implements federal requirements for participation in the Medicaid program, and ensures that providers are effectively screened in order to protect program participants.

### **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.