



## 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:** October 11, 2019

**RE:** **CSI Review – Medicaid Managed Care Unified Preferred Drug List (UPDL) (OAC 5160-26-03)**

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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 submitted to the CSI Office on September 5, 2019. The public comment period was held open through September 12, 2019. Unless otherwise noted below, this recommendation reflects the version of the proposed rules filed with the CSI office on September 5, 2019.

A managed care plan (MCP) is defined in statute to mean “a health insuring corporation (HIC) licensed in the state of Ohio that enters into a managed care provider agreement with ODM.” MCPs contract with ODM to provide services and are paid per member per month. The proposed rule prescribes services an MCP must provide to its Medicaid members or enrollees and articulates the conditions for which an MCP can limit services. The proposed amendment adds language that requires the MCP to provide pharmacy services and prescribe medications from a single preferred drug list (PDL). The PDL is also used by Medicaid fee-for-service providers. By requiring MCPs to use a unified PDL, ODM believes recipients will benefit because they will be able to receive the same prescribed drugs regardless of the payor, and providers will benefit because it will result in consistent prescribing and pre-authorization requirements.

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

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

During the rule's development, ODM solicited feedback from five Medicaid MCPs and no concerns were expressed. The Ohio State University Wexner Medical Center submitted a comment in support of the proposed rule during the CSI public comment period.

The proposed rule adversely impacts the five MCPs serving Medicaid recipients. According to the BIA, the adverse impacts generally include the assurance of providing medically necessary services and the financial responsibilities and administrative burdens for providing those services. For example, one of the medically necessary services covered by the MCPs is respite care. The proposed rule requires respite care providers to hold a provider agreement (\$554), complete employee background checks (\$22 - \$24), complete employee competency evaluation programs (\$200 - \$500), obtain first aid certification (\$0 - \$30), complete twelve hours of continuing education per year (up to \$12 per course), and in certain instances hold specialized credentials. Finally, respite provider agencies must be certified through Ohio Mental Health and Addiction Services (MHAS). Certification costs are based on the agency's budget and range from \$0 to \$4,000.

ODM states in the BIA that this rule ensures compliance with federal statute by requiring the coverage of certain medical services, provides guidelines for enrolled individuals and MCPs, and ensures providers are correctly compensated for 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.