



## 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:** May 4, 2020

**RE:** **CSI Review – Nursing Facility Quality Indicators and Quality Payment Rate (OAC 5160-3-58)**

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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 March 9, 2020, and the public comment period was held open through March 15, 2020. Unless otherwise noted below, this recommendation reflects the version of the proposed rule filed with the CSI Office on March 9, 2020.

Ohio Administrative Code 5160-3-58 establishes the criteria for the quality indicators that nursing facilities must meet to earn quality points and the methodology for determining the nursing facility quality payment rate. The quality indicators include maintaining a low incidence of pressure ulcers, antipsychotic medication uses, and unplanned weight loss, as well as ensure a satisfactory employee retention rate. The rule is being amended to replace "Preference for Everyday Living Index" surveys with resident and family satisfaction surveys as a quality indicator. Other amendments include removing antipsychotic medication use exemptions and updating measurement periods of the quality indicators.

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During early stakeholder outreach, ODM sent the rule to Ohio's three nursing facility provider associations, as well as managed care plans. One comment was received that suggested that individuals receiving antipsychotic medication as a part of hospice care be exempted from the rules. ODM did not make changes based on this comment and stated that the removal of antipsychotic medication exemptions is consistent with the amplifying statute. No comments were received during the CSI public comment period.

The business community impacted by the rule includes approximately 960 nursing facilities that participate in the Medicaid program. The adverse impacts created by the rule include the time and effort spent by nursing facilities to monitor and record information necessary to qualify for quality indicator points. Additionally, facilities that do not provide adequate information or do not sufficiently complete the ODM annual nursing facility cost report may not be awarded points, which would result in decreased payments. ODM states in the BIA that the rule is necessary to provide a consistent and fair framework for the calculation of quality payments.

### **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.