Ohio | 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: September 16, 2020

RE: **CSI Review – Hospice Emergency Rule Amendments (OAC 5160-56-04, 5160-56-05, and 5160-56-06)**

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 amended rules proposed by the Ohio Department of Medicaid (ODM). This rule package was submitted to the CSI Office on August 24, 2020, and the public comment period was held open through August 31, 2020. Unless otherwise noted below, this recommendation reflects the version of the proposed rules filed with the CSI Office on August 24, 2020.

Ohio Administrative Code (OAC) Chapter 5160-56 sets forth requirements for hospice services provided through the Medicaid Hospice Program. OAC 5160-56-04 establishes provider requirements for hospice services, including licensure, eligibility, and care coordination. The rule is being amended to introduce the use of pseudo-patients, which are individuals trained to role-play or computer-based mannequin devices, in competency training for hospice aides. OAC 5160-56-05 sets forth the services covered through hospice programs and is being amended to allow the use of contracting services and telehealth. OAC 5160-56-06 covers reimbursement for the provision of hospice services and includes amendments that allow for the use of telehealth and update the way services are billed when a portion of the service is provided through telehealth.

During early stakeholder outreach, ODM reviewed the proposed rules with relevant industry stakeholders, including LeadingAge Ohio, the Ohio Council for Home Care & Hospice, Ohio's Hospice, and the Ohio Health Care Association. ODM received comments from stakeholders that recognized the changes as minimal. No comments were received during the CSI public comment period.

The business community impacted by these rules includes approximately 130 hospice care providers participating in the Medicaid program. The adverse impacts created by the rules include the cost of maintaining a Medicaid provider agreement and Medicare guidelines, as well as training and licensure requirements for providers. ODM notes in the BIA that the costs can be difficult to fully account for based on the variance in size and scale of provider businesses. ODM states that the rules maintain requirements that are necessary for reimbursing providers for hospice services. The amendments are supported by stakeholders and offer a degree of flexibility through the expanded availability of telehealth 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.