Ohio | Common Sense Initiative

Mike DeWine, Governor
Jon Husted, Lt. Governor

Sean McCullough, Director

MEMORANDUM

TO: Tommi Potter, Ohio Department of Medicaid

FROM: Jacob Ritzenthaler, Business Advocate

DATE: April 6, 2022

RE: **CSI Review – MyCare Ohio (OAC 5160-58-01.1, 5160-58-02.1, 5160-58-03, and 5160-58-03.1)**

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 Department as provided for in ORC 107.54.

Analysis

This rule package consists of three amended rules and one new rule proposed by the Ohio Department of Medicaid (ODM). This rule package was submitted to the CSI Office on March 1, 2022, and the public comment period was held open through March 8, 2022. Unless otherwise noted below, this recommendation reflects the version of the proposed rules filed with the CSI Office on March 1, 2022.

Ohio Administrative Code (OAC) Chapter 5160-58 establishes requirements for the MyCare Ohio managed care program, which manages benefits for individuals who are eligible for both Medicaid and Medicare benefits. OAC 5160-58-01.1 sets forth the application of general managed care rules to this chapter and is amended to replace instances of the term "managed care plans" with "managed care organizations" and "managed care entities," include additional referenced rules, and remove language that has been relocated to another rule. OAC 5160-58-02.1 establishes the reasons an individual may be terminated from MyCare Ohio plan enrollment, including ineligibility, enrolling in a different waiver program, or obtaining third party coverage. The rule is amended to update terminology and state that terminations that result from gaining third party coverage are effective at

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the end of the last day of the month in which the third-party coverage is identified. OAC 5160-58-03 establishes the services covered by MCOPs and is amended to update language related to compensation for inpatient capital costs and require that MCOPs provide services to members who are not enrolled in the Ohio Resilience through Integrated Systems and Excellence plan but require those services. OAC 5160-58-03.1 is a new rule that sets forth requirements for primary care providers and utilization management programs to maximize effectiveness. The requirements were previously located in a different chapter and have been modified to pertain only to MyCare Ohio plans.

During early stakeholder outreach, ODM sent the proposed rules to stakeholders for feedback, including Aetna Better Health Ohio, Buckeye Community Health Plan, CareSource Ohio, Molina Healthcare of Ohio, and UnitedHealthcare Community Plan of Ohio. During that time, comments from the Ohio Department of Aging were addressed by ODM. Two comments were received during the CSI public comment period and, in response, ODM amended the rules to clarify the requirements for pharmacy services.

The business community impacted by the rules includes five MyCare Ohio plans operating in Ohio. The adverse impact created by the rules is primarily compliance with rule requirements for providing notification to MyCare Ohio members and ODM, maintaining written policies and procedures for claims submission, and maintaining a log for utilization management. ODM states that the adverse impact created by the rules is necessary to ensure that the program complies with federal requirements and that certain necessary services are provided.

Recommendations

Based on the information above, the CSI Office has no recommendations on this rule package.

Conclusion

The CSI Office concludes that ODM should proceed in filing the proposed rules with the Joint Committee on Agency Rule Review