



Common Sense Initiative

Mike DeWine, Governor
Jon Husted, Lt. Governor

Sean McCullough, Director

MEMORANDUM

TO: Tommi Potter, Ohio Department of Medicaid

FROM: Joseph Baker, Business Advocate

DATE: September 22, 2022

RE: **CSI Review – Appeals and Grievances for MyCare Ohio (OAC 5160-58-08.4)**

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 one amended rule from the Ohio Department of Medicaid (ODM). This rule package was submitted to the CSI Office on July 26, 2022, and the public comment period was held open through August 2, 2022. Unless otherwise noted below, this recommendation reflects the version of the proposed rules filed with the CSI office on July 26, 2022.

Ohio Administrative Code (OAC) 5160-58-08.4 requires MyCare Ohio plans (plans) to provide a notice of action when an adverse benefit determination occurs, providing the member information regarding the right to file an appeal, the reasons for the determination, and other relevant factors. The rule also sets forth language, format, and timing requirements for such notices and a member's right to file a grievance orally or in writing at any time, and the plan's responsibility to respond and resolve such grievances and comply with grievance resolution procedures and timeframes outlined in the rule. If the plan appeal process does not resolve an appeal, the member may request a state hearing, and plans are required to maintain member's benefits during the hearing or appeal process if the member meets certain criteria. The rule is amended to remove various definitions, update calendar references, remove a requirement that plans notify ODM within one business day regarding appeals that meet the criteria for expedited resolution, and shorten the timeframe for requesting a state hearing from one hundred and twenty days to ninety days following an adverse appeal resolution.

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During early stakeholder outreach, ODM shared the proposed rule with the five plans currently providing managed care services in Ohio: Aetna Better Health Ohio, Buckeye Community Health Plan, CareSource Ohio, Molina Healthcare of Ohio, and UnitedHealthcare Community Plan of Ohio. No comments were provided in response to the request for early stakeholder feedback or during the CSI public comment period.

The business community impacted by the rules includes managed care providers in Ohio. The adverse impacts to business include records maintenance requirements, reporting requirements, and notice requirements connected to providing notice regarding adverse benefit determinations, acknowledging receipt of an appeal or grievance, providing written notices, and maintaining records of all appeals and grievances and submitting reports to ODM as required. ODM notes that plans are compensated for the cost of reporting and notice requirements through the MyCare Ohio provider agreement and states that the adverse impact to business is justified to ensure that Ohio managed care plans comply with federal regulations regarding the member's right to file grievances or appeal adverse benefit determinations made by plans.

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 rule with the Joint Committee on Agency Rule Review.