



Common Sense Initiative

Mike DeWine, *Governor*
Jon Husted, *Lt. Governor*

Joseph Baker, *Director*

MEMORANDUM

TO: Tommi Potter, Ohio Department of Medicaid

FROM: Jacob Ritzenthaler, Business Advocate

DATE: October 5, 2023

RE: **CSI Review – Behavioral Health (OAC 5160-27-01)**

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 new rule proposed by the Ohio Department of Medicaid (ODM) as part of the statutory five-year review process. This rule package was submitted to the CSI Office on September 21, 2023, and the public comment period was held open through September 28, 2023. Unless otherwise noted below, this recommendation reflects the version of the proposed rule filed with the CSI Office on September 21, 2023.

Ohio Administrative Code 5160-27-01 establishes the eligibility criteria for a behavioral health provider participating in ODM programs. The rule sets forth the criteria and types of providers that may be considered as either eligible billing providers or eligible rendering providers. The rule also establishes requirements for services to be provided within the relevant scope of practice and supervision guidelines.

During early stakeholder outreach, ODM sent the proposed rule to industry stakeholders for feedback, including the Ohio Council of Behavioral Health (Ohio Council), Ohio Association of County Behavioral Health Authorities, Ohio Children's Alliance, and Ohio Department of Mental Health and Addiction Services (OMHAS). During that time, ODM received similar comments from two stakeholders, which suggested adding student trainees and residents and eligible providers.

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

CSIPublicComments@governor.ohio.gov

During the ensuing discussion, ODM reached an agreement with the stakeholders that the amendments were not required. During the CSI public comment period, ODM received one comment from the Ohio Council which did not offer suggested changes but noted appreciation for ODM's efforts to engage with stakeholders.

The business community impacted by the rule includes any business that holds or is seeking an ODM provider agreement as a behavioral health provider. The adverse impacts created by the rule include requirements to meet provider eligibility criteria, which includes certification through OMHAS. Certification fees, as established in OAC 5122-25-08, are calculated based on the total number of services which are being certified but for which the provider is not accredited. The cost is \$200 per service, with a minimum certification fee of \$1,000. ODM states that the adverse impacts created by the rule are necessary to protect the safety of Medicaid recipients and the integrity of the program.

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.