



Common Sense Initiative

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

Joseph Baker, *Director*

MEMORANDUM

TO: Tom Simmons, Ohio Department of Aging

FROM: Michael Bender, Business Advocate

DATE: April 15, 2024

RE: **CSI Review – PACE: Disenrollment (OAC 173-50-04 and 173-50-05)**

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This rule package consists of two new rules and two rescinded rules proposed by the Ohio Department of Aging (Department) as part of the statutory five-year review process. This rule package was submitted to the CSI Office on March 15, 2024, and the public comment period was held open through April 2, 2024, after an extension from March 31, 2024. Unless otherwise noted below, this recommendation reflects the version of the proposed rules filed with the CSI Office on March 15, 2024.

Ohio Administrative Code (OAC) 173-50-04 is rescinded and replaced by a new rule with the same number. The new rule establishes the process for voluntary disenrollment of a participant from the Program of All-Inclusive Care for the Elderly (PACE). Compared to the rescinded version of the rule, the new version is revised to replace the required use of a disenrollment form with requirements to notify the Department in writing, permit PACE organizations to send a written notice of disenrollment rather than a signed document to the Department, and make additional non-substantive changes. OAC 173-50-05 is rescinded and replaced by a new rule with the same number. The new rule establishes the process for the involuntary disenrollment of a participant from PACE. Compared

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to the rescinded version of the rule, the new version is revised to cite rather than restate federal regulations, eliminate Medicaid fraud as a reason for involuntary disenrollment, no longer require a PACE organization to submit a participant's utilization profile to the Department when requesting to disenroll the participant, and make additional non-substantive changes.

During early stakeholder outreach, the Department emailed McGregor PACE, Ohio's only PACE organization, on March 6, 2024, to explain the proposed changes to the rules and to offer the opportunity to provide feedback. McGregor PACE did not provide any input on the rules. Furthermore, the Department received no input on the rules via its website, which asks members of the public to reach out at any time with suggestions for any of its rules. No comments were received during the CSI public comment period.

The business community impacted by the rules includes PACE organizations, of which there is currently only one in Ohio (McGregor PACE). The adverse impacts created by the rules include requirements to provide notification and documentation to the Department, continue providing services until the effective date of disenrollment, and initiate a discharge plan for the participant. The Department points out that the burden on businesses is reduced due to the changes that no longer require a PACE organization to use a disenrollment form or signed statement to notify the Department of a voluntary disenrollment and that no longer require a PACE organization to submit a participant's utilization profile to the Department when requesting permission to disenroll a participant. In addition, the Department emphasizes that providers apply voluntarily to become a PACE organization. The Department states that the adverse impacts to business are justified to implement federal requirements, ensure that qualified applicants are enrolled and remain enrolled in PACE to receive necessary care, ensure that participants who do not want to participate are voluntarily disenrolled, and ensure that those who no longer qualify are involuntarily disenrolled.

Recommendations

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

Conclusion

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