

CSI - Ohio

The Common Sense Initiative

Business Impact Analysis

Agency Name: Ohio Department of Mental Health and Addiction Services

Regulation/Package Title: Community psychiatric supportive treatment (CPST) service.

Rule Number(s): 5122-29-17

Date: 4/10/18

Rule Type:

- ☐ New
☐ Amended

- ☒ 5-Year Review
☐ Rescinded

The Common Sense Initiative was established by Executive Order 2011-01K and placed within the Office of the Lieutenant Governor. Under the CSI Initiative, agencies should balance the critical objectives of all regulations with the costs of compliance by the regulated parties. Agencies should promote transparency, consistency, predictability, and flexibility in regulatory activities. Agencies should prioritize compliance over punishment, and to that end, should utilize plain language in the development of regulations.

Regulatory Intent

1. Please briefly describe the draft regulation in plain language.

Please include the key provisions of the regulation as well as any proposed amendments.

The community psychiatric supportive treatment service (CPST) is a bundled service intended to provide an array of services to individual clients through individual professionals or multidisciplinary teams. The CPST certified service defines the types of

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activities that may be provided under the service, the method of delivery, and requires case coordination and a development plan for the individual's needs.

As part of the behavioral health benefit redesign undertaken with the Ohio Department of Medicaid, the Department of Mental Health and Addiction Services agreed to make no changes to this service for at least the first year of the redesign implementation. The rule is being put through the statutorily required five-year review process as a "no-change" rule.

2. Please list the Ohio statute authorizing the Agency to adopt this regulation.

5119.36

3. Does the regulation implement a federal requirement? Is the proposed regulation being adopted or amended to enable the state to obtain or maintain approval to administer and enforce a federal law or to participate in a federal program?

If yes, please briefly explain the source and substance of the federal requirement.

No.

4. If the regulation includes provisions not specifically required by the federal government, please explain the rationale for exceeding the federal requirement.

Not applicable.

5. What is the public purpose for this regulation (i.e., why does the Agency feel that there needs to be any regulation in this area at all)?

This service provides a bundled array of services to individuals to help the individual succeed in the community and identify and access services needed for that goal.

6. How will the Agency measure the success of this regulation in terms of outputs and/or outcomes?

The Department studies outcomes data reported for services provided, and adjusts service requirements in response.

Development of the Regulation

7. Please list the stakeholders included by the Agency in the development or initial review of the draft regulation.

If applicable, please include the date and medium by which the stakeholders were initially contacted.

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The input to not change this rule was received generally from the stakeholders that were part of the BH redesign information process over the course of 2016 and 2017. Major stakeholders included the Ohio Council of Behavioral Health & Family Services Providers and the Ohio Association of County Behavioral Health Authorities, along with many other individual certified service provider entities.

8. What input was provided by the stakeholders, and how did that input affect the draft regulation being proposed by the Agency?

The input was to not change this rule during the first year of the BH redesign.

9. What scientific data was used to develop the rule or the measurable outcomes of the rule? How does this data support the regulation being proposed?

Not applicable.

10. What alternative regulations (or specific provisions within the regulation) did the Agency consider, and why did it determine that these alternatives were not appropriate? If none, why didn't the Agency consider regulatory alternatives?

Not applicable.

11. Did the Agency specifically consider a performance-based regulation? Please explain. *Performance-based regulations define the required outcome, but don't dictate the process the regulated stakeholders must use to achieve compliance.*

Not applicable.

12. What measures did the Agency take to ensure that this regulation does not duplicate an existing Ohio regulation?

The Department is the only agency that regulates the provision of mental health services. This is bundled service that allows for Medicaid billing.

13. Please describe the Agency's plan for implementation of the regulation, including any measures to ensure that the regulation is applied consistently and predictably for the regulated community.

The Department will make no changes to the service, and providers will continue to be able to provide the CPST service and bill Medicaid.

Adverse Impact to Business

14. Provide a summary of the estimated cost of compliance with the rule. Specifically, please do the following:

- a. Identify the scope of the impacted business community;**
Any certified provider of mental health services
- b. Identify the nature of the adverse impact (e.g., license fees, fines, employer time for compliance); and**
Providers must pay fees to become certified, as set forth in 5122-25-08, and must follow the requirements for providing the service.
- c. Quantify the expected adverse impact from the regulation.**
The adverse impact can be quantified in terms of dollars, hours to comply, or other factors; and may be estimated for the entire regulated population or for a “representative business.” Please include the source for your information/estimated impact.

There is minimal impact from this certified service rule. CPST is a bundled service, with few additional requirements. Primarily CPST providers are required to have a staff member who is responsible for case coordination and a staff development plan based upon the needs of the CPST staff. Staff development is an overhead cost that most providers must incur. Case coordination is an extra part of providing a bundled service such as CPST, but the rule allows for delegation of services to minimize costs. The additional cost of providing CPST services are accounted for in the Medicaid rates and providers have the flexibility to provide services in a manner appropriate to their setting.

15. Why did the Agency determine that the regulatory intent justifies the adverse impact to the regulated business community?

This service has been developed with the stakeholder community and provides a set of services that benefits individuals.

Regulatory Flexibility

16. Does the regulation provide any exemptions or alternative means of compliance for small businesses? Please explain.

Not applicable.

17. How will the agency apply Ohio Revised Code section 119.14 (waiver of fines and penalties for paperwork violations and first-time offenders) into implementation of the regulation?

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The Department works with providers to educate and assist with being compliant with service rules, and does not pursue enforcement action unless there is evidence of ill-intent or negligence.

18. What resources are available to assist small businesses with compliance of the regulation?

The Department and Ohio Department of Medicaid have developed extensive training materials as part of the BH redesign project.