



Common Sense Initiative

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Business Impact Analysis

Agency, Board, or Commission Name: Ohio Department of Medicaid

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Regulation/Package Title (a general description of the rules' substantive content):

Mobile Response and Specialized Service

Rule Number(s): 5160-27-13 rescind

Date of Submission for CSI Review: 12/17/2024

Public Comment Period End Date: 12/24/2024

Rule Type/Number of Rules:

New/___ rules

No Change/___ rules (FYR? ___)

Amended/___ rules (FYR? ___)

Rescinded/ 1 rules (FYR? ___)

The Common Sense Initiative is established in R.C. 107.61 to eliminate excessive and duplicative rules and regulations that stand in the way of job creation. Under the Common Sense Initiative, agencies must balance the critical objectives of regulations that have an adverse impact on business with the costs of compliance by the regulated parties. Agencies should promote transparency, responsiveness, predictability, and flexibility while developing regulations that are fair and easy to follow. Agencies should prioritize compliance over punishment, and to that end, should utilize plain language in the development of regulations.

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Reason for Submission

1. **R.C. 106.03 and 106.031 require agencies, when reviewing a rule, to determine whether the rule has an adverse impact on businesses as defined by R.C. 107.52. If the agency determines that it does, it must complete a business impact analysis and submit the rule for CSI review.**

Which adverse impact(s) to businesses has the agency determined the rule(s) create?

The rule(s):

- a. ☒ **Requires a license, permit, or any other prior authorization to engage in or operate a line of business.**
- b. ☐ **Imposes a criminal penalty, a civil penalty, or another sanction, or creates a cause of action for failure to comply with its terms.**
- c. ☒ **Requires specific expenditures or the report of information as a condition of compliance.**
- d. ☐ **Is likely to directly reduce the revenue or increase the expenses of the lines of business to which it will apply or applies.**

Regulatory Intent

2. **Please briefly describe the draft regulation in plain language.**

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

5160-27-13 entitled “Mobile response and stabilization service” states policies concerning eligible providers, service coverage, limitations, and reimbursement as they apply to the service. The service is defined and related activities are described in rule 5122-29-14. The current version of rule 5160-27-13 is being rescinded as more than fifty percent of the original rule is being revised. A new rule with the same rule number and title is being proposed. This rule has been written to remove the adverse impacts found in the rescinded rule.

3. **Please list the Ohio statute(s) that authorize the agency, board or commission to adopt the rule(s) and the statute(s) that amplify that authority.**

Authorized by: 5164.02, 5162.02

Amplifies: 5162.02, 5162.03, 5162.05

4. **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.

5. **If the regulation implements a federal requirement, but includes provisions not specifically required by the federal government, please explain the rationale for exceeding the federal requirement.**

Not applicable.

6. **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 rule, to be proposed for rescission and replaced by a new rule, supports Medicaid program integrity by setting minimum standards for providers who wish to render this service. It also codifies information that providers need concerning service provision limitation and service reimbursement.

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

This rule is successful if only providers that meet the requirements are permitted to render the service. Success is also determined by proper reimbursement to providers of services rendered.

8. **Are any of the proposed rules contained in this rule package being submitted pursuant to R.C. 101.352, 101.353, 106.032, 121.93, or 121.931?**

If yes, please specify the rule number(s), the specific R.C. section requiring this submission, and a detailed explanation.

No.

Development of the Regulation

9. **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.

A public comment period was held for the rule November 25, 2024, through December 6, 2024.

Also, the Ohio Department of Mental Health and Addiction Services was involved in the development of the rule.

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

No comments were received concerning this rule.

11. **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?**

No scientific data was used to develop this Medicaid policy.

- 12. 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?**
Alternative regulations may include performance-based regulations, which define the required outcome, but do not dictate the process the regulated stakeholders must use to comply.

No other alternative regulations were considered. ODM considers the Ohio Administrative Code to be the most appropriate method to codify these rules so they regulations in the rule can be enforced.

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

The rule was thoroughly reviewed by ODM legal and legislative staff, and other policy areas to ensure it does not duplicate an existing Ohio regulation.

- 14. 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 processes (Medicaid IT system, provider enrollment and support staff) are in place to implement and apply the requirements and regulations which are currently in place.

Adverse Impact to Business

- 15. Provide a summary of the estimated cost of compliance with the rule(s). Specifically, please do the following:**

- a. Identify the scope of the impacted business community, and**

The impacted business community are those behavioral health providers that wish to render MRSS to Medicaid recipients.

- b. Quantify and identify the nature of all adverse impact (e.g., fees, fines, employer time for compliance, etc.).**

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.

The rule requires that providers of MRSS must hold an OhioMHAS certification. The cost of certification through OhioMHAS is based upon the budget of the agency that is applying for certification. The fee schedule showing the correlation between the agency's budget and the certification cost is located in OhioMHAS OAC rule 5122-25-08. A provider already certified by OhioMHAS, requesting to add an additional service(s) pays a fee based only

upon their budget for the new service(s), not their entire budget. When the agency has appropriate accreditation from The Joint Commission, CARF, or COA there is no certification fee owed to OhioMHAS. Providers will also submit information regarding termination or transition of services within the timeframe outlined in the rule. There is no financial cost to the provider to submit the information, just staff time to submit the information. In a few instances, a provider will need to request prior authorization in order to render a service longer than six weeks. There is no financial cost to the provider to request prior authorization, just staff time to complete the request.

- 16. Are there any proposed changes to the rules that will reduce a regulatory burden imposed on the business community? Please identify. (*Reductions in regulatory burden may include streamlining reporting processes, simplifying rules to improve readability, eliminating requirements, reducing compliance time or fees, or other related factors*).**

No.

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

The requirements in this rule assist in the provision of quality services to individuals receiving mobile response and specialized service. The regulatory intent of this rule is justified as well by the benefit to providers of the service as the reimbursement methodology is revised.

Regulatory Flexibility

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

There are no alternate means of compliance because this regulation applies to all behavioral health providers wishing to render mobile response and stabilization service. No exception can be made based on the organization size.

- 19. 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?**

These rules do not impose a fine or penalty for first-time paperwork violations.

- 20. What resources are available to assist small businesses with compliance of the regulation?**

The Ohio Department of Medicaid website, www.medicaid.ohio.gov, has several resources available for providers related to provider support. ODM's Bureau of Provider Services also renders technical assistance to providers through its provider hotline, (800) 686-1516.