



Common Sense Initiative

Mike DeWine, Governor
Jon Husted, Lt. Governor

Carrie Kuruc, Director

MEMORANDUM

TO: Tommi Potter, Ohio Department of Medicaid

FROM: Jacob Ritzenthaler, Regulatory Policy Advocate

DATE: September 12, 2019

RE: **CSI Review – Nursing Facilities: Medicaid Cost Report Filing, Disclosure, Requirements, and Records Retention (OAC 5160-3-20)**

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 Agency as provided for in ORC 107.54.

Analysis

This rule package consists of one new rule and one rescinded rule proposed by the Ohio Department of Medicaid (ODM) as part of the statutorily required five-year review requirement. This rule package was submitted to the CSI Office on July 9, 2019 and the public comment period was held open through July 16, 2019. Unless otherwise noted below, this recommendation reflects the version of the proposed rules filed with the CSI office on July 9, 2019.

Ohio Administrative Code (OAC) 5160-3-20 sets forth procedures for Medicaid cost report filing, disclosures, and records retention for nursing facilities and intermediate care facilities for individuals with intellectual disabilities (ICFs-IID). The rule is being rescinded and replaced with a new rule of the same rule number due to the scale of amendments proposed for the rule. The new rule features amendments that remove references to ICFs-IID, as the requirements for these facilities are being relocated to another rule. Additional changes are being made to clarify and reorganize the rule's content, as well as to delete duplicative language.

During early stakeholder outreach, ODM sent the proposed rule changes to relevant industry

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stakeholders, including the Ohio Health Care Association, the Academy of Senior Health Sciences, Inc., and LeadingAge Ohio. No comments were received during this time or during the CSI public comment period.

The business community impacted by this rule includes approximately 960 nursing facilities and 10 state-operated ICFs-IID that are currently operating in Ohio. The adverse costs created by the rule include the administrative time and effort to adhere to reporting requirements, as well as penalties for late reports and failure to retain records. If a facility does not file a cost report on time, the facility is charged a \$2.00 fee for each late day. If a facility fails to retain required records, ODM will require a fee of \$1,000 per necessary audit or alternately, a fee of twenty-five percent of the amount by which the undocumented cost increased during the fiscal year. ORC section 5165.10 requires nursing facility providers that participate in the Medicaid program to file annual cost reports for each facility they own or operate.

Recommendations

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

Conclusion

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