



Common Sense Initiative

Mike DeWine, Governor
Jon Husted, Lt. Governor

Carrie Kuruc, Director

MEMORANDUM

TO: Becky Phillips, Department of Developmental Disabilities

FROM: Ethan Wittkorn, Regulatory Policy Advocate

DATE: October 17, 2019

RE: CSI Review – Transportation Services (5123:2-9-18, 5123:2-9-19, 5123-9-18, 5123-9-19 and 5123-9-24)

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This Ohio Department of Developmental Disabilities (Department) rule package consists of five rules (two new, two rescinded and one amended). This rule package was submitted to the CSI Office on August 15, 2019 with the public comment period held open through September 6, 2019. Unless otherwise noted below, this recommendation reflects the version of the proposed rules filed with the CSI office on August 15, 2019.

The proposed rules cover the Department's policies concerning Home and Community-Based Service (HCBS) waivers for non-medical transportation through programs such as Self-Empowered Life Funding (SELF) and Level One; which are individual option HCBS waivers that allow Ohioans with developmental disabilities to receive services in their homes as opposed to an institutional setting. The rules also cover HCBS waivers requirements for adult day support, career planning, group employment support, individual employment support, and vocational habilitation.

Amendments to the rules include aligning payment rates for transportation to a per-mile rate, the addition of a definition for modified vehicles, and technical updates. New rules 5123-9-19 and

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5123-9-18 serve to replace 5123:2-9-19 and 5123:2-9-18, with changes including updates to references and budget limitations for non-medical transportation in 5123-9-19, the addition of a definition for modified vehicles, revised definitions for non-medical transportation in 5123-9-18, updates to drug testing requirements for independent providers of non-medical transportation, and restructuring of delivery mode and payment rates in 5123-9-18.

As part of early stakeholder outreach, a workgroup consisting of system stakeholders, including representatives of county boards of developmental disabilities and service providers, developed proposals to improve non-medical transportation services. The Ohio Provider Resource Association also held its own workgroup meeting to make recommendations and give feedback on the proposals. Next, the proposals were discussed at several meetings of the Department's Waiver Workgroup, finally being distributed to stakeholders during the clearance process to request feedback on the draft BIA. During the period of public comment, the Department received comments concerning the limitations of vehicle modifications, flexibility of billing on a per-trip or per-mile rate, requests to align vehicle safety requirements with those of the Public Utilities Commission of Ohio, clarification of the trip rates in Appendix A, and a request for a higher budget limitation for those needing a modified vehicle. Changes made to the rules due to comment include revisions to the definition of a modified vehicle.

The rules impact providers of non-medical transportation and transportation to individuals enrolled in the waivers described above. Providers must be certified by the Department and hold a Medicaid Provider Agreement from the Ohio Department of Medicaid, as well as submit information to the Department and maintain documentation regarding the services provided. Failure to meet these requirements may prompt sanctions from the Department. Administrative costs to report the required information varies due to size and services offered by the provider. The Department states that the rules are needed to ensure the services outlined in the rules are compliant with federal requirements and to ensure the health and safety of individuals with developmental disabilities.

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.