



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: April 2, 2021

RE: **CSI Review – Durable Medical Equipment, Prostheses, Orthotic Devices, Medical and Surgical Supplies, and Supplier Services (OAC 5160-10-01, 5160-10-16, and 5160-10-22)**

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This rule package consists of two amended rules, one rescinded rule, and one new rule proposed by the Ohio Department of Medicaid (ODM) as part of the statutorily required five-year review requirement.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 March 10, 2021, and the public comment period was held open through March 17, 2021. Unless otherwise noted below, this recommendation reflects the version of the proposed rules filed with the CSI Office on March 10, 2021.

Ohio Administrative Code (OAC) Chapter 5160-10 establishes requirements for durable medical equipment, prostheses, orthotic devices, medical/surgical supplies, and supplier services (DMEPOS). OAC 5160-10-01 is a new rule, replacing the previous rule of the same number due to extensive revisions, that sets forth general provisions for DMEPOS. The rule includes definitions used throughout the chapter, coverage standards for services, and claim payment requirements. The rule also includes an updated appendix that establishes the payment schedule for DMEPOS services. OAC 5160-10-16 and 5160-10-22 establish requirements for the coverage and payment

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for wheelchairs and ventilators. The rules have been amended to update the revision dates of the associated certificate of medical necessity.

During early stakeholder outreach, ODM reviewed the rules at meetings of the Ohio Association of Medical Equipment Services (OAMES) and with service provider stakeholders. ODM states in the BIA that the proposed amendments were approved by OAMES. No comments were received during the CSI public comment period.

The business community impacted by the rules includes providers of DMEPOS services. Adverse impacts created by the rules include requiring licensure to provide services, completion of prior authorization requests, and notifying a recipient of conditions or events. ODM states that the rules are structured to recognize that licensure is required to conduct business as a provider and is not a requirement instituted by the rules. Time spent by a provider notifying recipients and completing prior authorizations is minimal. ODM states that the rules are necessary to fulfill statutory requirements for establishing guidelines for providers to receive payment for services.

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.