



## Common Sense Initiative

**Mike DeWine**, Governor  
**Jon Husted**, Lt. Governor

**Sean McCullough**, Director

### MEMORANDUM

**TO:** Tommi Potter, Ohio Department of Medicaid

**FROM:** Jacob Ritzenthaler, Business Advocate

**DATE:** **October 1, 2021**

**RE:** **CSI Review – Lactation Consulting Services (OAC 5160-8-42)**

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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 proposed by the Ohio Department of Medicaid (ODM) as part of the statutory five-year review process. This rule package was submitted to the CSI Office on August 26, 2021, and the public comment period was held open through September 2, 2021. Unless otherwise noted below, this recommendation reflects the version of the proposed rule filed with the CSI Office on August 26, 2021.

Ohio Administrative Code 5160-8-42 is a new rule that establishes requirements for lactation consulting services provided by a physician, physician assistant, or advanced practice nurse. The rule sets forth the providers that may render and receive Medicaid payment for lactation consulting services, as well as coverage and payment for services.

During early stakeholder outreach, ODM reviewed the proposed rule during meetings with stakeholders, including the Ohio Lactation Consulting Association, community organizations, and lactation consulting providers. Stakeholders suggested allowing lactation consulting service payments through Medicaid to registered nurses who are an international board-certified lactation consultant (IBCLC), which ODM accepted and incorporated into the rule. Stakeholders also

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suggested that independent IBCLCs be included as covered providers. ODM states in the BIA that incorporating independent IBCLCs is being considered as a next step for the rule in the future. No comments were received during the CSI public comment period.

The business community impacted by this rule includes physicians, physician assistants, and nurses certified to provide lactation consulting services. The adverse impact created by the rule includes the cost of IBCLC certification, which is \$660 for initial certification. Recertification must be completed every 10 years, costs \$330, and requires a recertification examination or 75 hours of specific education courses, and 250 hours of clinical practice and basic life support education. ODM states that the rule is necessary to provide increased access to medical professionals providing lactation consulting services and to ensure practitioners are properly certified to provide those 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.