



## 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 – Prior Authorization (OAC 5160-1-31)**

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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This rule package consists of one new rule that replaces one rescinded rule by the Ohio Department of Medicaid (ODM) as part of the statutory five-year review process.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 4, 2021, and the public comment period was held open through August 11, 2021. Unless otherwise noted below, this recommendation reflects the version of the proposed rule filed with the CSI Office on August 4, 2021.

Ohio Administrative Code 5160-1-31 is a new rule that replaces the previous prior authorization rule and is amended to change instances of the term “managed care plans” to “managed care entities,” update rule language to reflect the change in program management from the Ohio Department of Job and Family Services, and incorporate statutory procedures and guidelines for prescribing and submitting claims. The rule also includes a new process for ODM to reconsider a prior authorization request that has been denied, which must be submitted with the necessary information.

During early stakeholder outreach, ODM sent the proposed rule to industry stakeholders for feedback and received comments from two stakeholders. ODM incorporated feedback into the

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rule regarding provider notification but did not include suggested changes that did not adhere to Legislative Service Commission rule drafting requirements. ODM received one comment during the CSI public comment period from the Ohio Hospital Association. In response, ODM made changes to the rule to allow hospitals to request reconsidered for denied prior authorization.

The business community impacted by the rule includes all individuals or organizations that are Medicaid providers. The adverse impact created by the rule includes the effort to obtain prior authorization to provide certain services, as well as the potential loss of payment for prior authorization requests that are denied and time to submit reconsideration requests following denial of prior authorization. ODM states that the rule is necessary to ensure that services provided are medically necessary and are approved to be provided to patients.

### **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.