



Common Sense Initiative

Mike DeWine, Governor
Jon Husted, Lt. Governor

Joseph Baker, Director

MEMORANDUM

TO: Tommi Potter, Ohio Department of Medicaid

FROM: Jacob Ritzenthaler, Business Advocate

DATE: November 21, 2023

RE: **CSI Review – Ohio Resilience through Integrated Services and Excellence Program (OAC 5160-59-03.4, 5160-59-03.5, 5160-59-05.1, and 5160-59-05.2)**

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 four amended rules proposed by the Ohio Department of Medicaid (ODM). This rule package was submitted to the CSI Office on October 26, 2023, and the public comment period was held open through November 2, 2023. Unless otherwise noted below, this recommendation reflects the version of the proposed rules filed with the CSI Office on October 26, 2023.

Ohio Administrative Code (OAC) Chapter 5160-59 establishes requirements related to the Ohio Resilience through Integrated Systems and Excellence (OhioRISE) program. OAC 5160-59-03.4 sets forth coverage requirements for behavioral health respite services, including provider eligibility criteria and limitations, as well as the components of and reimbursement for services. The rule is amended to allow relationships to be established with youths via face-to-face meetings, telephone calls, or video calls. OAC 5160-59-03.5 establishes coverage requirements for primary flex funds, which are used for services, equipment, or supplies that enhance or supplement the services provided to youths through the OhioRISE program. The rule is amended to state that enrolled youths must be the primary recipients of flex funds and that neither the youth nor caregiver can be a provider of goods or services purchased with flex funds. Amendments also exclude pools, spas, saunas, food,

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internet service, and items of general utility from being purchased with flex funds. OAC 5160-59-05.1 concerns out-of-home respite services, which are provided when a caregiver is absent or in need of relief. The rule is amended to remove psychiatric residential treatment facilities from the types of eligible providers. OAC 5160-59-05.2 establishes requirements for transitional services and supports, which are used to provide youths with long-term solutions for behavior challenges. The rule includes amendments that prohibit authorized representatives, legal guardians, birth parents, adoptive and foster parents, and stepparents from providing or receiving payment for services.

During early stakeholder outreach, ODM sent the proposed rules to industry stakeholders for feedback, including the ARC of Ohio, Ohio Association of Health Plans, Ohio Association of County Boards Serving People with Developmental Disabilities, Ohio Family & Children First Councils, County Public Children Services Agencies, Center for Community Solutions, Ohio Council for Behavioral Health & Family Services Providers, Ohio Center for Autism and Low Incidence, Ohio Children's Alliance, New Directions and Crossroads Health, Mercy Health Foundations Behavioral Health Services, Case Western Reserve University Centers for Innovative Practices, and Ohio Association of County Behavioral Health Authorities. In response to comments received during that time, ODM amended the rules to include additional methods for establishing a relationship for the provision of behavioral health respite services, as well as other suggested changes. No comments were received during the CSI public comment period.

The business community impacted by the rules includes the OhioRISE plan (Aetna Better Health of Ohio), managed care organizations contracted by ODM, and behavioral health providers. The adverse impacts created by the rules include requirements to maintain licensure and certification, comply with service provision and recordkeeping standards, and obtain first aid certification. The cost for certification through the Ohio Department of Mental Health and Addiction Services is \$200 per offered service, with a minimum cost of \$1,000. ODM states that a first aid certification course can range in cost from \$50 to over \$110. ODM states that the adverse impacts are necessary to ensure the provision of medically necessary services to individuals enrolled in Medicaid, as well as fulfilling compliance with federal Medicaid program requirements.

Recommendations

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

Conclusion

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

