



Common Sense Initiative

Mike DeWine, Governor

Joseph Baker, Director

MEMORANDUM

TO: Tommi Potter, Ohio Department of Medicaid

FROM: Michael Bender, Business Advocate

DATE: February 14, 2025

RE: **CSI Review – Structured Family Caregiving (OAC 5160-44-33)**

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 one amended rule proposed by the Ohio Department of Medicaid (ODM). This rule package was submitted to the CSI Office on January 10, 2025, and the public comment period was held open through January 17, 2025. Unless otherwise noted below, this recommendation reflects the version of the proposed rule filed with the CSI Office on January 10, 2025.

Ohio Administrative Code (OAC) 5160-44-33 governs the Structured Family Caregiving (SFC) service, where an individual who is at least eighteen years old and enrolled on the MyCare Ohio, Ohio Home Care, or Pre-Admission Screening System Providing Options and Resources Today (PASSPORT) waiver program resides with a caregiver who provides daily care and support. Requirements are set for SFC providers regarding training, delivery of services, documentation, staff, and payment standards. Furthermore, the rule establishes limitations and the authorization process for SFC. The rule is amended to allow SFC providers in the Ohio Home Care waiver program to meet qualifying criteria if they hold accreditation from an organization recognized by the federal

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Centers for Medicare and Medicaid Services (CMS) or the United States Department of Health and Human Services (HHS).

During early stakeholder outreach, ODM learned from providers that while the original rule development permitted organizations holding an accreditation recognized by CMS or HHS to serve as SFC providers in the MyCare Ohio and PASSPORT programs, this was not accomplished for the Ohio Home Care program. ODM thus determined to revise the rule to permit providers with these accreditations to meet the requirements to become an SFC provider in Ohio Home Care. Ohio Department of Aging (ODA) staff were also involved in the development of the draft rule. During the CSI public comment period, ODM received comments from Careforth and a parent. Careforth expressed support for the proposed amendment to the rule. However, the parent questioned the need for the rule to exist at all, considering many of the requirements to be overly burdensome. ODM explained that federal regulations require it to assure the health and welfare of those enrolled in an ODM or ODA-administered home and community-based services waiver through the provision of services by qualified providers. Furthermore, ODM pointed out that many of the rule's provisions, including the proposed amendment, offer flexibility for providers to be qualified.

The business community impacted by the rule includes all nursing facility-based waiver service providers with the MyCare, Ohio Home Care, and PASSPORT waiver programs. The adverse impacts created by the rule include the requirements for providers to be properly certified and for staff to be properly licensed to provide SFC services. According to ODM, tuition fees that are charged for home health aide certification programs range from \$300 to \$650. The average state-tested nursing assistant (STNA) class in Ohio costs \$593 and lasts three weeks. The STNA exam costs a total of \$104 for the skills and written portions. Additionally, to be considered for a license to provide skilled or non-medical home health service as a home health agency or nonagency provider, a provider must submit an application along with a nonrefundable \$250 application fee. ODM notes that the changes to the rule will expand the capacity of providers to deliver SFC services to individuals on the Ohio Home Care waiver. ODM states that the adverse impacts to business are justified to comply with federal law and ensure the health and welfare of waiver participants.

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 rule with the Joint Committee on Agency Rule Review.