



Common Sense Initiative

Mike DeWine, *Governor*
Jim Tressel, *Lt. Governor*

Joseph Baker, *Director*

MEMORANDUM

TO: Tommi Potter, Ohio Department of Medicaid

FROM: Caleb White, Business Advocate

DATE: July 15, 2025

RE: **CSI Review – HCBS Electronic Visit Verification (OAC 5160-32-02 and 5160-32-03)**

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 proposed by the Ohio Department of Medicaid (ODM). This rule package was submitted to the CSI Office on June 26, 2025, and the public comment period was held open through July 3, 2025. Unless otherwise noted below, this recommendation reflects the version of the proposed rules filed with the CSI Office on June 26, 2025.

Ohio Administrative Code (OAC) 5160-32-02 outlines data collection requirements for Electronic Visit Verification (EVV) for home and community-based services. This rule is amended to remove the term "agency providers" and replace it with "providers" which will allow non-agency providers to choose an alternate vendor. OAC 5160-32-03 allows the use of an alternate EVV vendor to facilitate data collection and establishes requirements for these alternative EVV vendors. This rule is amended to eliminate "agency" from "agency providers." This will allow non-agency providers to choose an alternate vendor.

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During early stakeholder outreach, ODM provided stakeholders the opportunity to provide feedback during a stakeholder engagement meeting held April 28, 2025, and held a public comment period from May 2, 2025, to May 12, 2025. The proposed changes were shared with the 30,000 stakeholders who have subscribed to the Department's EVV listservs. During this period ODM received feedback that the proposed changes will provide a helpful option for independent providers to use alternate EVV vendors. No comments were received during the CSI public comment period.

The business community impacted by the rules includes Medicaid fee-for-service and managed care providers of personal care and home health services. The adverse impacts created by the rules include administrative expenses for training providers on the use of EVV program requirements, business and technical requirements for alternate vendors, notification requirements consent requirements regarding the use of GPS, and denial of payment or post payment review penalty for failing to comply with EVV requirements. ODM notes that the proposed changes to the rules will help to reduce the adverse impacts to business by expanding options for independent providers to choose an alternate EVV vendor outside of the state EVV solution and the Financial Management System alternate vendors. ODM states that the adverse impacts to business are justified comply with a federal requirement to implement and operate an EVV program that is in compliance with the 21st Century Cures Act under Section 1903 of the Social Security Act.

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.