



Common Sense Initiative

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

Joseph Baker, *Director*

MEMORANDUM

TO: Tommi Potter, Ohio Department of Medicaid

FROM: Michael Bender, Business Advocate

DATE: July 9, 2025

RE: **CSI Review – Medicaid School Program (OAC 5160-35-02, 5160-35-05, and 5160-35-06)**

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 three amended rules proposed by the Ohio Department of Medicaid (ODM). This rule package was submitted to the CSI Office on May 13, 2025, and the public comment period was held open through May 20, 2025. Unless otherwise noted below, this recommendation reflects the version of the proposed rules filed with the CSI Office on May 13, 2025.

Ohio Administrative Code (OAC) 5160-35-02 establishes the qualifications for becoming a Medicaid School Program (MSP) provider. The rule is amended to allow MSP providers to employ or contract for marriage and family therapists, chemical dependency counselors, clinical nurse specialists, nurse practitioners, and physician assistants. OAC 5160-35-05 describes the services authorized for Medicaid coverage that may be provided by MSP providers. The rule is amended to include 504 plans and school services plans of care as acceptable documentation of need for eligible students and expand the list of nursing services and behavioral health services that MSP providers may provide to

77 SOUTH HIGH STREET | 30TH FLOOR | COLUMBUS, OHIO 43215-6117

CSIPublicComments@governor.ohio.gov

eligible students to receive Medicaid reimbursement. OAC 5160-35-06 describes the transportation services and medical supplies and equipment authorized for Medicaid coverage that may be provided by MSP providers. The rule is amended to remove targeted case management services and include 504 plans and school services plans of care as acceptable documentation of need for eligible students.

During early stakeholder outreach, ODM met with a variety of entities and organizations throughout June and July 2024, including the Ohio Department of Education and Workforce (DEW), the Ohio Department of Health (ODH), all six Medicaid third-party billing agencies, the Ohio School Board Association, the Ohio Association of School Nurses (OASN), the Ohio Council of Behavioral Health and Family Services Providers (Ohio Council), and the Ohio Children's Alliance. Among the topics discussed with these stakeholders were care plans, documentation, nursing services, behavioral health services, physical health services, school districts, and updates to the MSP. ODM then hosted a webinar about the proposed rules on July 10, 2024, working with DEW and ODH to notify interested stakeholders. The webinar had 265 participants and resulted in 225 substantive comments in the chat function. Next, ODM sent out a survey which was available from August 9-23, 2024, to 411 stakeholders through its MSP listserv asking questions about proposed changes with respect to acceptable forms of documentation, services that school districts and community schools are already providing, and recommended services for the MSP. ODM held a final webinar on October 29, 2024, that was attended by 275 interested parties to share its proposed plan for updating the MSP and offering one more chance for stakeholders to provide further feedback or ask questions. As a result of the input from stakeholders during this outreach period, ODM revised the rules to expand the list of reimbursable nursing services and behavioral health services, align the allowable types of practitioners with those who work in community behavioral health settings, and include 504 plans and school services plans of care as acceptable medical documentation. Furthermore, ODM included an option for school districts and community schools to receive Medicaid reimbursement for providing some preventative physical and behavioral health services to all eligible children in a school setting.

During the CSI public comment period, ODM received twenty-two comments from individuals affiliated with the OASN, the Ohio Council, the Ohio School Health Services Association, the Medicaid School Program Steering Committee, Healthcare Billing Services, the Ohio School Psychologists Association, the Integrated Health Initiative, the Ohio Physical Therapy Association, the Ohio School-Based Health Alliance, Healthcare Billing Services, Disability Rights Ohio, UnitedHealthcare Community Plan of Ohio, Akron Children's Hospital, the Ohio Association of Physician Assistants, three licensed occupational therapy practitioners, the Mercer County Education Service Center, Columbus City Schools, and the Ohio Occupational Therapy, Physical Therapy, and Athletic Trainers Board. Commenters supported the objectives of the proposed changes to the MSP. However, some commenters pointed out that it would be difficult to fully evaluate the impact of the changes without seeing the universal form for the school services plan of care. As a result, they urged

ODM to complete the school services place of care template as soon as possible, and to do it in collaboration with stakeholders, so that schools could make the necessary changes in their systems and train their staff. ODM assured the commenters that it would work with stakeholders to develop this universal form in a timely manner, adding that the school services plan of care will allow for physical therapy/occupational plans of care, nursing care plans, and individualized health plans as alternative forms of documentation to reduce duplication of documentation for service providers. At the request of the Ohio Council, ODM included criteria for referral to external providers as a component of the school services plan of care when student needs exceed the capacity of the school-based team. Commenters also asked for guidance, tools, and training concerning the implementation of the rule changes. ODM said that it would develop these items with stakeholders to address topics such as utilization of the school services plan of care, updating school services to include new physical and behavioral health services in a school setting, and processes and procedures for documentation, billing, and services. Lastly, commenters proposed technical changes and requested points of clarification. ODM modified the rules and answered questions accordingly.

The business community impacted by the rules includes school districts and community schools that choose to participate as MSP providers. The adverse impacts created by the rules include the time and costs associated with conducting assessments of need, completing criminal records checks, completing the Random Moment Time Study (RMTS), submitting data collected in the federal child count of special education students, ensuring that the plan of care is signed by a qualified practitioner, completing cost reports annually, and contracting with independent certified public accountants or firms to perform audits of cost reports. According to ODM, physical or mental health therapists who provide services as part of the MSP may be randomly surveyed for the RMTS up to five times a quarter. The survey contains six questions that selected therapists must respond to electronically within five business days. The cost of contracting with an independent certified public accountant depends on factors such as the size of the school and the number of Medicaid claims to be audited. ODM points out that the proposed changes to the rules may cause additional administrative burden in the form of documentation submission, hiring or contracting additional staff, and additional funding needed to pay for certified public accountants. However, ODM notes that additional Medicaid dollars may offset these additional costs. ODM further emphasizes that some of the proposed changes to the rules provide greater flexibility for schools that choose to participate in the MSP, including more acceptable forms of documentation to receive Medicaid reimbursement and additional services and providers. ODM states that the adverse impacts to business are justified to help school districts and community schools effectively implement the MSP and increase the services that students with disabilities can receive in an educational setting to ensure they attend school regularly and are able to participate in academics.

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.