



Common Sense Initiative

Mike DeWine, Governor
Jim Tressel, Lt. Governor

Joseph Baker, Director

MEMORANDUM

TO: Tommi Potter, Ohio Department of Medicaid

FROM: Jacob Ritzenthaler, Business Advocate

DATE: June 13, 2025

RE: **CSI Review – Ohio Home Care Waiver Services (OAC 5160-46-04, 5160-46-09, 5160-46-10, and 5160-46-12)**

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This rule package consists of three new rules and one rescinded and replaced rule proposed by the Ohio Department of Medicaid (ODM). This rule package was submitted to the CSI Office on April 22, 2025, and the public comment period was held open through April 29, 2025. Unless otherwise noted below, this recommendation reflects the version of the proposed rules filed with the CSI Office on April 22, 2025.

Ohio Administrative Code (OAC) Chapter 5160-46 establishes requirements for Ohio Home Care Waiver, which provides services in the homes of individuals with physical disabilities or unstable medical conditions. OAC 5160-46-04 is a new rule that establishes requirements for personal care aide services and replaces the previous rule concerning service definitions and provider requirements. The rule incorporates the previous rule's requirements for personal care aide services and also includes updates that reduce the number of in-service continuing education hours from twelve to

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eight per year, allow a licensed registered nurse or licensed limited practice nurse to provide personal care aide supervision, remove requirements for twice yearly assessments, and remove unnecessary regulatory restrictions. OAC 5160-46-09 is a new rule that sets forth requirements for vehicle modification services. Provider requirements, definitions, and specifications were located in the previous version of OAC 5160-46-04. OAC 5160-46-10 is a new rule that sets forth requirements for supplemental transportation services previously found in OAC 5160-46-04 and includes additional requirements for supplemental transportation service providers to maintain a daily vehicle inspection log and ensure vehicles contain a fire extinguisher and are free of potentially harmful items. OAC 5160-46-12 is a new rule that establishes requirements for adult day health center services previously found in OAC 5160-46-04. The rule language is updated to require adult day health centers to maintain daily vehicle inspection logs and ensure that vehicles contain a fire extinguisher and are free of potentially harmful items. The rule also includes new language concerning fire safety, chemical and cleaning supply storage, environmental conditions, and emergency preparedness plans.

During early stakeholder outreach, ODM sent the proposed rules to industry stakeholders for feedback, including nursing facility-based waiver providers and participants, providers of vehicle modifications, adult day health centers, and other interested parties. In response to feedback received during that time, ODM amended the rules to reduce the number of in-service continuing education hours required of personal care aides from twelve to eight hours per year. ODM also removed requirements for vehicle modification providers to be licensed as adaptive mobility dealers and duplicative language. During the CSI public comment period, one stakeholder suggested changing requirements for in-person RN assessments from every 60 days to every 180 days, which ODM did not change, noting that rule amendments already remove duplicative twice-per-year assessments. ODM also responded to the stakeholder to clarify that agencies are not required to hold multiple certificates or accreditations.

The business community impacted by the proposed rules includes ODM-administered waiver providers, including those providing personal care aide, vehicle modification, supplemental transportation, or adult day health center services. The adverse impacts created by the rules vary by provider. Personal care aide providers must be Medicare-certified, obtain certificates of competency and first aid, and complete continuing education. Vehicle modification providers must report to ODM a fixed cost proposal of each vehicle modification, as well as completion status. Supplemental transportation providers are required to maintain collision and liability insurance for each vehicle and driver, obtain motor vehicle inspections, and ensure drivers possess valid licenses and first aid training. Adult day health centers must maintain commercial liability insurance of at least \$1 million and conduct an annual fire inspection with the Ohio State Fire Marshal. ODM states that the adverse impacts created by the rules are necessary to ensure the health and welfare of Ohio Home Care Waiver participants.

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.