



Common Sense Initiative

Mike DeWine, Governor
Jon Husted, Lt. Governor

Sean McCullough, Director

MEMORANDUM

TO: Tommi Potter, Ohio Department of Medicaid

FROM: Jacob Ritzenthaler, Regulatory Policy Advocate

DATE: June 2, 2021

RE: **CSI Review – Managed Care Incident Reporting (OAC 5160-44-05)**

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 Agency 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 April 26, 2021, and the public comment period was held open through May 5, 2021. Unless otherwise noted below, this recommendation reflects the version of the proposed rule filed with the CSI Office on April 26, 2021.

Ohio Administrative Code 5160-44-05 establishes requirements for management of incidents in care for individuals enrolled in a nursing facility-based level of care home and community-based services (HCBS) program or specialized recovery service (SRS) program. ODM and the Ohio Department of Aging (ODA) are required to establish incident monitoring systems and report incidents to ensure the safety of individuals. The rule categorizes types of events as critical or reportable incidents and sets procedures for investigating incidents. The rule is amended to revise the timeframes for reporting incidents to ODA and entering information through the incident monitoring system.

During early stakeholder outreach, ODM reviewed the rule with program administrators and

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during meetings of the HCBS rules workgroup. ODM received comments during that time which prompted the proposed amendments to the rule. No stakeholder comments were received during the CSI public comment period.

The business community impacted by the rule includes all providers of HCBS waivers and SRS. The adverse impact created by the rules is primarily the requirement to report all incidents involving individuals enrolled in the programs. ODM notes in the BIA that providers are paid rates that include an administrative component to cover costs related to incident reporting. ODM states in the BIA that the rule is necessary to protect the health and welfare of individuals enrolled in these programs.

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