



## Common Sense Initiative

**Mike DeWine**, Governor  
**Jon Husted**, Lt. Governor

**Sean McCullough**, Director

### MEMORANDUM

**TO:** Tommi Potter, Ohio Department of Medicaid

**FROM:** Jacob Ritzenthaler, Business Advocate

**DATE:** April 6, 2022

**RE:** **CSI Review – Medicaid Incident Management (OAC 5160-44-05)**

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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 Department as provided for in ORC 107.54.

#### Analysis

This rule package consists of one new rule and one rescinded rule proposed by the Ohio Department of Medicaid (ODM). This rule package was submitted to the CSI Office on March 15, 2022, and the public comment period was held open through March 22, 2022. Unless otherwise noted below, this recommendation reflects the version of the proposed rules filed with the CSI Office on March 15, 2022.

New rule Ohio Administrative Code (OAC) 5160-44-05 establishes requirements for managing incidents and creating procedures for reporting and addressing critical and reportable incidents. The rule replaces the previous rule for the primary purpose of including individuals either enrolled in the Ohio Resilience through Integrated Systems and Excellence (OhioRISE) program or receiving services through a Medicaid managed care organization (MCO). Other changes to the rule include amendments to the process for reporting the results incident investigations to individuals and updates to incident language that provide clarity.

During early stakeholder outreach, ODM reviewed the proposed rule during meetings of its home and community-based services (HCBS) rules workgroup and sent the rules to industry stakeholder

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for review. Based on stakeholder feedback, ODM revised the proposed rule to update requirements related to the Incident Management System, informing individuals of investigation findings, and incident classification and notification. During the CSI public comment period, ODM received comments from two stakeholders that both addressed current service provision complaints. These comments did not prompt ODM to make changes to the rule.

The business community impacted by the rule includes all providers of ODM and Ohio Department of Aging HCBS waivers, specialized recovery services, OhioRISE plans and designees, and MCOs. The adverse impact created by the rule is primarily the time and effort spent reporting incidents according to established timeframes. ODM states that the adverse impact is necessary to ensure the health and welfare of individuals receiving these services.

### **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