



## Common Sense Initiative

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

**Joseph Baker**, Director

### MEMORANDUM

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

**FROM:** Jacob Ritzenthaler, Business Advocate

**DATE:** October 13, 2022

**RE:** **CSI Review – Nursing Facility Provider Relief Payments (OAC 5160-3-33)**

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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 Agency as provided for in ORC 107.54.

#### Analysis

This rule package consists of one new rule proposed by the Ohio Department of Medicaid (ODM). This rule package was submitted to the CSI Office on September 15, 2022, and the public comment period was held open through September 21, 2022. Unless otherwise noted below, this recommendation reflects the version of the proposed rule filed with the CSI Office on September 15, 2022.

Ohio Administrative Code 5160-3-33 is a new rule that establishes guidelines for reimbursement on nursing facility relief payments when a business or bed license is sold. The rule requires a nursing facility to reimburse the full amount of the relief payment when a sale occurs, with the facility providing the difference if the sale amount is less than the relief payment. A nursing facility retains any amount remaining after a sale once the reimbursement is paid in full. The rule also requires ODM to notify each facility of the manner and deadline for reimbursement. A nursing facility may request a reconsideration within 30 days.

During early stakeholder outreach, ODM sent the rule to nursing facility provider organizations for feedback, including the Ohio Health Care Association, Academy of Senior Health Sciences, Inc.,

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and LeadingAge Ohio. No comments were received during that time or during the CSI public comment period.

The business community impacted by the rule includes approximately 970 nursing facilities participating in the Medicaid program. The adverse impact created by the rule is primarily the cost of reimbursing ODM upon sale of business or bed licenses, particularly if the license is sold for less than the full amount of the relief payment. ODM states that the rule is necessary to implement state statute and to ensure provider relief funds are used for their intended purpose.

### **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 rule with the Joint Committee on Agency Rule Review