



Common Sense Initiative

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

Joseph Baker, *Director*

MEMORANDUM

TO: Lisa Musielewicz, Ohio Department of Mental Health and Addiction Services

FROM: Jacob Ritzenthaler, Business Advocate

DATE: January 13, 2025

RE: CSI Review – MRSS Rule Update (OAC 5122-29-14)

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This rule package consists of one rescinded rule that is replaced by a new rule proposed by the Ohio Department of Mental Health and Addiction Services (OMHAS) as part of the statutory five-year review process. This rule package was submitted to the CSI Office on December 13, 2024, and the public comment period was held open through December 20, 2024. The rule package was initially filed as an amended rule and, after including amendments prompted by stakeholder comments, was resubmitted as a rescinded and new rule due to Legislative Service Commission rule drafting guidelines. Unless otherwise noted below, this recommendation reflects the version of the proposed rules filed with the CSI Office on January 6, 2024.

Ohio Administrative Code (OAC) 5122-29-14 establishes requirements for mobile response and stabilization services (MRSS), which are structured intervention and support services. These requirements include criteria for delivery, mobile response, certification, MRSS teams, fidelity reviews, quality improvement activities, and service standards. The rule includes amendments that list relevant definitions, address situations when mobile response has been requested but a clinician is not available in-person as a situation for telehealth usage, require MRSS teams to include an independently licensed professional to monitor the team as required by the physician, update fidelity rating requirements to once every twelve months and specify the use of the department's MRSS

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

CSIPublicComments@governor.ohio.gov

provider rating tool, require the submission of quality improvement data to the department, allow a three year timeframe of implementing 24-hour MRSS service provision, and provide consent information regarding individuals under the age of 18 and emergency care when consent is not required.

During early stakeholder outreach, OMHAS posted the proposed rule to its draft rules website from October 3, 2024, to October 18, 2024, and notified industry stakeholders of the opportunity to submit feedback. During that time, OMHAS received comments that prompted amendments that clarify language, update telehealth circumstances, update MRSS team composition requirements, provide new requirements for the fidelity assessment process, provide clarification regarding the initial mobile response, and establish parental consent requirements. During the CSI public comment period, OMHAS received comments from The Ohio Council of Behavioral Health and Family Service Providers, Disability Rights Ohio, Case Western Reserve University Center of Excellence, and consultants. In response to stakeholder comments, OMHAS updated definitions, provided clarifying edits, clarified the beginning of the MRSS delivery timeline, included language that allows scheduling of initial response outside of the designated response time upon request, added a requirement that initial safety plans be developed with the family, allowed plans to be shared with other team members upon request, and provided information to parents or guardians post intervention. After the CSI public comment period, OMHAS submitted an updated BIA and rules that, to comply with LSC drafting guidelines, are now proposed as a rescind/new rule package.

The business community impacted by the rule includes community behavioral health services providers. The adverse impacts created by the rule includes fees for obtaining MRSS certification, annual fidelity reviews, and compliance with requirements for service provision, which includes expanding to 24-hour service provision. The cost of MRSS certification includes a \$1,000 fee required of all behavioral health service providers, \$100 fee for MRSS service certification, and a \$1,000 fee for to be certified for general services, substance use disorder case management services, peer recovery services, community psychiatric supportive treatment, therapeutic behavioral services, and psychosocial rehabilitation. Violations of certification requirements can result in a fifth-degree felony. OMHAS states that the adverse impacts are necessary to protect the young people served by providers of MRSS.

Recommendations

Based on the information above, the CSI Office has no recommendations on this rule package.

Conclusion

The CSI Office concludes that OMHAS should proceed in filing the proposed rules with the Joint

Committee on Agency Rule Review.