



July 10, 2018

[Via Email \[Rules@Medicaid.Ohio.gov\]](mailto:Rules@Medicaid.Ohio.gov)

Ohio Department of Medicaid

Re: ERF 178818: Rule Updates: Conversion to Time-Limited Provider Agreements and Re-Enrollment, Revalidation of Provider Agreements, Provider Screening and Application Fee.

To Whom It May Concern,

On behalf of the Medical Association Coalition (MAC) and entities that have signed on to this letter referenced below, we are submitting this letter to share our collective view and concerns on Ohio Administrative Code (OAC) 5160-1-78.8.

The MAC appreciates the Ohio Department of Medicaid's (ODM) effort to expedite an update to OAC 5160-1-17.8 in response to concerns raised regarding the enrollment of behavioral healthcare practitioners in Medicaid who have had past criminal offenses. The Governor's Executive Order was a necessary first step toward addressing the preservation of the current behavioral health workforce. While the addition of a tiered list of exclusionary offenses will permit some individuals with previous criminal offenses to enroll with Medicaid, this is limited and will likely result in continued collateral sanctions, further resulting in unnecessary workforce reduction.

We agree with the concerns submitted by The Ohio Council on this matter and would further like to express our concerns that this rule is at odds with the authority granted by Ohio's licensing boards. Ohio's licensing boards are granted statutory authority to define and regulate the professional practices of various healthcare professionals. The boards protect the public by assuring board licensed individuals have the necessary education and training, meet established standards, and ensure that licensees are mentally and physically fit to practice. We believe that the ODM rule conflicts with a licensing board's authority and further believe that the licensing board should determine when a practitioner is able to practice safely.

At this time, we find it imperative and relevant to mention our concerns about the recent changes to Ohio Administrative Code section 5160-1-17.6(l)(1). This rule requires ODM to terminate the provider agreement with any provider whose license is suspended, revoked or otherwise limited. It is our understanding that prior to this rule change, ODM had been using an elevated screening process for individuals whose licenses were disciplined based upon the provider's personal impairment due to mental illness or substance use disorder. We are greatly concerned with ODM's decision to discontinue the use of the elevated screening process and strictly apply Rule 5160-1-17.6 to all providers.

Physicians and other medical professionals who have never had a history of criminal action, but are under a consent decree for addiction, mental health or even a physical disability, should also be able to provide care to Medicaid recipients. As stated above, if the regulatory agency has determined that the practitioner is safe to practice, ODM should not impede the practitioner's ability to provide needed care to a population of patients who often find it difficult to locate a physician who participates in Medicaid. Any rules that create a conflict between ODM and the licensing boards have the potential to limit a licensee's employment opportunities and may result in patient access issues.

We thank you for reviewing this matter and look forward to working with the Ohio Department of Medicaid. Jennifer Hayhurst, the Ohio State Medical Association's Director of Regulatory Affairs, has agreed to act as the contact and coordinator for our group. You may reach Ms. Hayhurst at [jhayhurst@osma.org](mailto:jhayhurst@osma.org) or 614-527-6766.

Sincerely,



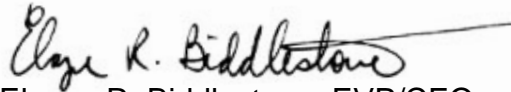
Todd Baker, Chief Executive Officer  
Ohio State Medical Association



Matt Harney, Executive Director  
Ohio Osteopathic Association



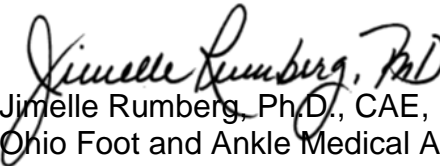
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