OHIO STATE
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Sent via electronic mail to: Rules@Medicaid.Ohio.gov

On behalf of the Ohio State Chiropractic Association (OSCA), thank you for the opportunity to provide comment on proposed Rule 5160-8-11 specific to amendments to establish coverage for evaluation and management services performed by a chiropractor, as required by HB 136. The OSCA would also like to express appreciation to the Ohio Department of Medicaid (ODM) for all previous communication, comment, and feedback on this topic.

There are two sections within the proposed Rule that still cause concern that the intent of the Rule does not match the intent of the drafters of HB 136.

1. Moderate level exam codes (99204 & 99214) have been excluded from coverage

ODM included language in their first proposed draft of 5160-8-11, as well as follow up communication, of the intent to cover low and moderate level exams. The OSCA agreed with this as reasonable and in the best interest of Ohioans covered by Medicaid. However, in later versions of the Rule, moderate level exam codes 99204 and 99214 were omitted. ODM has stated in explanation that excluding moderate level exam codes would be consistent with existing standards of practice and is a way to contain costs.

Moderate level exams are defined by a moderate level of decision making and includes the evaluation of 1-2 chronic or acute conditions. It is not uncommon for a patient to present to a chiropractic physician's office with a new or acute injury or an exacerbated or progressing acute or chronic injury that may have been treated by other healthcare providers, and/or may require referral to and or co-management with other healthcare providers. In these cases, a medically appropriate history, exam and moderate decision making could be appropriate.

The performance of the exam should be based on the needs of the patient's case and presentation. It would not be appropriate, or consistent with the standards of patient care, to make the exam selection or limit the extent of the examination, as a means to contain costs related to implementing HB 136. Limiting or excluding the coverage of E/M codes in this

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manner would be inconsistent with the intent of HB 136, contrary to standards of patient care, and not in the best interest of Ohioans covered by Medicaid.

Further, neck and low back pain, and other musculoskeletal conditions continue to create the largest healthcare spend in the United States resulting in $264 billion spent annually. Research continues to show that when conservative treatment is utilized, specifically with a doctor of chiropractic, the cost of the episode of care is lower compared to conventional medical treatment. Therefore, allowing and supporting the appropriate use of conservative care can actually be a method to reduce healthcare spending related to musculoskeletal pain and conditions. The OSCA urges ODM to reconsider its position related to moderate level exam codes 99204 and 99214 and include them as a covered service. This change would be consistent with the intent of HB 136 to improve access to conservative healthcare options and will ultimately result in lower healthcare costs.

2. Prior Authorization – Removed from 5160-8-11 and not replaced with another option to exceed visit limits when appropriate

As expressed by ODM in their responses to OSCA throughout the rule clearance process, one reason that ODM did not add CPT codes 99204 and 99214 to the allowable E/M codes is because prior authorization cannot be used to control costs. This was not the intention of the drafters of HB 136 and is not an appropriate reading of the statute based on its plain language. HB 136, as enacted, specifies that the Medicaid program must cover E/M services provided by licensed chiropractors and that: "(3) With respect to the coverage described in this section, all of the following apply: (b) The Medicaid program shall not impose a prior authorization requirement on covered services."

The plain language reading of HB 136 would imply that prior authorization requirements will not be applied to covered services. Covered services would include the services listed in 5160-8-11(D)(1)(a) – (e) (as the rule is proposed). Therefore, prior authorization may not be applied to the limits listed in this section. HB 136 does not preclude prior authorization from being applied to additional services, as was already included in 5160-8-11(D)(1)(e) as currently effective. For example, fifteen outpatient chiropractic services are currently allowed for individuals over 21. HB 136 was written to ensure that prior authorization could not be required for those allowed 15 visits. HB 136 does not prohibit prior authorization from being required for patients who need more than fifteen visits.

The OSCA appreciates the opportunity for continued open dialogue and to provide feedback regarding the implementation of E/M services into 5160-8-11. The OSCA looks forward to ongoing collaborative efforts with ODM to support the Medicaid community and the chiropractic physicians who serve them through conservative healthcare options.