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Hearing Date: 2/28/2018

Today's Date: 3/21/2018

Agency: Ohio Department of Job and Family Services

Rule Number(s): 5101:40-06 (ERF 180599).

If no comments at the hearing, please check the box. ☐

List organizations or individuals giving or submitting testimony before, during or after the public hearing and indicate the rule number(s) in question.

1. Mary Wachtel, Director of Public Policy for the Public Children Services Association of Ohio (PCSAO)
2. Joel Potts, Executive Director, Ohio Job and Family Services Director's Association (OJFSDA)
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Consolidated Summary of Comments Received

Please review all comments received and complete a consolidated summary paragraph of the comments and indicate the rule number(s).

Mary Wachtell (PCSAO) and Joel Potts (OJFSDA) written concerns submitted at the 2/28/2018 public hearing for rule 5101:2-40-06 are summarized as follows:

- 1) 200% income eligibility cap for the kinship child care program is too low;
- 2) Child care licensed provider requirements are restrictive;
- 3) Administrative burden raises concerns about the eligibility determination process;
- 4) Distribution and administration of funds on a first come, first serve basis will likely result in more funding going to bigger urban area and less to rural areas; and
- 5) Exclusion of kinship care providers who reside outside Ohio in border states reduces child care opportunities.

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Incorporated Comments into Rule(s)

Indicate how comments received during the hearing process were incorporated into the rule(s). If no comments were incorporated, explain why not.

None of the public hearing comments were incorporated into the rule. All responses below reflect the reasoning behind the Agency's decisions; but the most compelling reasoning is that the language of this new program is driven by the language of HB49 of the 132nd General Assembly that in turn points to TANF as the funding mechanism of the Kinship Child Care Program. TANF comes with Federal eligibility standards for the use of TANF funding.

Below are responses to the key issues identified in PCSAO's and OJFSDA's testimony.

Income eligibility. Limiting the income of kinship caregivers to 200% FPL means many will not be eligible for this program. For example, a family of three with income of \$55,000/year who then take on one relative child, would not qualify for the kinship child care program. With infant child care costs typically exceeding \$1000/month, if this family took in an infant, this family now has a \$12,000+ annual expense with no assistance. We understand that TANF funding comes with some limitations. That is why we believe this program should be modelled after the Ohio Works First child-only benefit to allow for more flexibility within TANF parameters and put the focus where it belongs, on the children.

Response:

Consideration was given to the income requirement as much as possible; however, because the funds allotted for this program (pursuant to House Bill 49) are TANF funds, the state must incorporate TANF requirements into the rule. The federal TANF regulation preamble's explicit reference to a need standard of 200% of the federal poverty level for the TANF to Title XX transfer supports an interpretation of the federal law that Congress considered a reasonable definition of "needy" to be at or below 200% of the federal poverty level. Ohio has consistently used this as our guidance for the expenditure of TANF funds. The \$15 million allocated to this program each year is estimated to serve 3,000 children. ODJFS will monitor program usage and track the number of kinship families who are unable to qualify under the 200% of federal poverty level standard.

The income of the kinship caregiver is included in order to ensure funding goes to the most vulnerable families. As we work together to gather data on the families in need of kinship child care, the eligibility will remain 200% of the FPL; however, the data we gather through initial implementation of the program will help quantify any unmet need and inform future decisions regarding the potential expansion of the program if funding is made available.

Child care provider requirements. We agree that children should be in licensed child care settings. However, consideration must be given to child care "deserts" throughout the state. As of 2016, an

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estimated 27% of Ohioans live in child care deserts; 65% of rural Ohioans lack access to regulated child care. This number has likely increased, as there has been a downward trend in the number of licensed providers. Between October 2017 and January 2018, Ohio gained three licensed providers, but lost 128, the majority of which were based in rural counties. Type B providers accounted for the greatest loss.

It is likely that many eligible kinship caregivers who live in counties that have a shortage of licensed child care providers will be shut out of the program because they cannot find a licensed child care slot. While we appreciate consideration given to an expedited Type B licensing process, we do not believe this is sufficient. In addition, Ohio should re-establish a licensing category along the lines of the former Parent/Provider Inspected Limited Type B provider, which ensures safety and background checks.

Response:

As stewards of tax payer dollars, we are striving to ensure that public funds are utilized to provide child care services through qualified, licensed providers. In addition, unregulated programs are not eligible to sign provider agreements for publicly funded child care or kinship child care as required in section 5104.31 Ohio Revised Code. ODJFS does not have the authority to create a new provider type. Additionally, ODJFS has created the Type B expedited licensing process to enable currently unregulated providers to become eligible to provide Kinship Child Care services.

Administrative burden. *The rules are written primarily from the perspective of structuring the program as an extension of publicly funded child care, raising concerns regarding the eligibility determination process, timelines, and responsibilities of PCSAs. As a result, the pre-screening and initial eligibility determination processes create a significant administrative burden for PCSAs, especially for stand-alone agencies. For example, as part of the pre-screening process, PCSAs are required to determine gross monthly income pursuant to OAC 5101:2-16-34, "Income eligibility requirements for publicly funded child care benefits". In other words, PCSAs are required to do a full-blown income eligibility determination for the publicly funded child care program, a complex process requiring special training, staff time and expertise. Even more challenging, stand-alone PCSAs must do this without access to SETS, CRIS, the Ohio Benefits System, employment databases, etc., for income verification and documentation. For those kinship families found ineligible for the publicly funded child care program, the PCSA must then assist them to apply for the kinship child care program.*

This administrative burden on already overworked children services caseworkers cannot be discounted. As this is an ODJFS-administered program, ODJFS should assume the primary administrative and eligibility responsibilities. At the least, the pre-screening process should be revised to function as a true pre-screen, rather than requiring a full income eligibility determination for the publicly funded child care program.

Response:

As most kinship caregivers are considering taking in children as a result of the child's involvement with the child welfare system, the natural entry point for the caregiver is to access this program through the PCSA. The PCSA's

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role already includes (per 5101:2-42-18) having a financial discussion with the family about the benefits the family can receive if they take a child into their home as a kinship placement versus becoming a licensed foster home for the child. Information on whether the caregiver would qualify for the kinship child care program and/or publicly funded child care assists the caregiver in their decision about their ability to care for the child as a kinship caregiver.

PCSAs are not being requested to conduct a full income eligibility determination. The pre-screening tool is a guide for discussion with the family and identification of those who are likely to qualify for either kinship child care or publicly funded child care. The intent is to ensure that, when families are eligible for other publicly funded child care resources, we are utilizing those resources first, thereby stretching the pool of kinship child care TANF dollars further. PCSAs already assist kinship caregivers in accessing available resources, such as child care. The pre-screening tool merely helps the PCSA determine which program may be most appropriate for the family – publicly funded child care or kinship child care. This will help ensure more timely provision of critical child care supports for kinship caregivers and efficient use of available resources. For the kinship child care program, ODJFS will administer the program and have responsibility for income eligibility determinations, review and approval/denial of all applications.

It should be noted that the pre-screening tool also provides a way to capture data and quantify how many families do not qualify for either publicly funded child care or the new kinship child care program, which was a concern voiced by PCSAs throughout the planning process. ODJFS is working to incorporate the pre-screening tool into the Statewide Automated Child Welfare System (SACWIS) to ease the potential administrative burden on PCSAs of gathering and submitting these tools manually. It is anticipated that this functionality will be available to PCSAs in SACWIS later this summer. The Office of Families and Children along with the Office of Family Assistance at ODJFS also will conduct a webinar to train PCSA agency staff on the program including what information is needed to complete the prescreening tool with regards to income.

Distribution and administration of funds. ODJFS will make the final eligibility determination and administer these funds at the state level, essentially setting up a “first come, first served” model. This will likely lead to a disproportionate portion of the funding being consumed in larger counties. As one director of a small county stated, “we many not need much of this money, but it should be available when we need it.” Further, without a spending cap (or allocation) for each county, PCSAs will not know what commitment can be made to kinship caregivers.

Response:

ODJFS will monitor the funds and project if and when they will no longer be available. When it is determined that available funding will not be able to sustain the program, ODJFS will notify PCSAs that new applicants will no longer be accepted. If it is necessary to adjust approved kinship child care services, ODJFS will provide notice to the kinship caregivers that they will no longer be able to receive kinship child care services. The PCSAs will also be notified. In both instances, notification will be in advance of the end of available funding.

Exclusion of kinship caregivers who reside outside Ohio. A new provision inserted after the rules went through clearance in November adds Ohio residency of the kinship caregiver as an eligibility

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requirement (Sec. (E) (5)). While we do not know the reason for this new provision, we are concerned with its impact. Many border counties place children with relatives across state lines; this will prevent those kinship caregivers from accessing child care assistance, even if they use a child care provider in an Ohio county where they work.

Response:

The addition of this requirement was the result of a clearance question received regarding program eligibility requirements. Rule language was added after the clearance period to specify that kinship caregivers shall apply for the kinship child care program by submitting the application to the PCSA who holds custody of the child or the PCSA in the kinship caregiver's county of residence. The clarification of which PCSA is responsible for determining eligibility introduced the question about children in the custody of a kinship caregiver who resides out of state, where the PCSA case is closed, or no PCSA had an open case. This requirement was added to avoid administrative confusion in those instances. In addition, this requirement is consistent with the administration of other financial supports provided with TANF funds, including the Kinship Permanency Incentive Program (KPIP) and Prevention, Retention and Contingency (PRC), which both require Ohio residency. Further, this requirement will aid in maximizing this resource for Ohio residents, as other publicly-funded child care resources may be available to out-of-state kinship caregivers within their state of residence.

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