

# CSI - Ohio

## The Common Sense Initiative

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### MEMORANDUM

**TO:** Kaye Norton, Ohio Department of Health

**FROM:** Whitney Sullinger, Regulatory Policy Advocate

**DATE:** April 23, 2012

**RE:** CSI Review – ODH 3701-8 Help Me Grow Program

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On behalf of Lt. Governor Mary Taylor, 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. This memo represents the CSI Office's comments to the Agency as provided for in ORC 107.54.

#### Analysis

The Ohio Department of Health (ODH) submitted a rule package (Ohio Administrative Code Chapter 3701-8) that outlines all definitions, procedures, and expectations of providers of services within the Help Me Grow (HMG) Home Visiting and Help Me Grow Early Intervention programs. The HMG program provides services and support to parents and children at risk for poor childhood outcomes. ODH is proposing to adopt the current rule package as new, replacing all existing rules and program policy. The Ohio Administrative Code rules 3701-8-1 through 3701-8-10, along with Appendices A through D of rule 3701-8-05 will be rescinded and replaced with the current rule package, which consists of sixteen rules and three appendices.

The Home Visiting program, established in Ohio Revised Code (ORC) 3701.61, provides first-time expectant parents, parents engaged in active military duty, and parents who are raising a child who is a victim of substantiated abuse or neglect with services. The goals of the program are to increase healthy pregnancies, increase the confidence and competence of parents, make meaningful needs-based referrals to community supports, and to transition children to developmental-enhancing programs by the time they are three years old.

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The Help Me Grow Early Intervention program for infants and toddlers with disabilities fulfills Part C of the Individuals with Disabilities Education Act, and carries with it the federally mandated regulations for early intervention service providers. Early Intervention provides a statewide comprehensive, coordinated, multidisciplinary, interagency system of supports and services to infants and toddlers with disabilities and/or developmental delays, and to their families.

The federal regulations for the Early Intervention program (34 CFR part 303) were revised and reissued on September 28, 2011 and the ODH rules are required to comply with federal law and to maintain federal Part C funding in Ohio. The following are instances where the proposed rules would exceed federal regulations;

- 3701-8-04 would require follow-up information to be provided to referral sources to help them know that their referrals were received. This change was made due to public comments received by ODH.
- 3701-8-05 would require nutrition screenings, unless the child has a documented nutrition disorder. According to ODH, this is necessary due to the known link between nutrition deficits and developmental delays. Nutrition services are also one of the seventeen early intervention service types required by federal law.

Stakeholder involvement in the development of the rule package has been ongoing for approximately eighteen months. Beginning in August 2011, ODH invited sixty stakeholders to participate in a Rule Revision Leadership team and workgroups. Numerous changes were made to the draft regulations at that time. An Early Intervention Eligibility Workgroup, established per legislation, made recommendations in September 2011 for the eligibility criteria of that program. Additional stakeholder meetings, webinars, and a public comment period led to additional changes to the draft rule. The revised draft rules were sent to the CSI Office on March 6, 2012. Additional comments were received by ODH and further changes to the draft rule package were made.

The scope of impacted businesses that may enter into a contractual relationship to provide Help Me Grow services include non-profit and for-profit entities or licensed professionals that provide early childhood health, social or educational services, and hospitals. After reviewing the BIA, the CSI Office determined the portion relating to the adverse impact to business was lacking and needed to be revised by ODH. Originally, ODH stated there was not an adverse impact to business due to the voluntary contractual nature of the relationship between the ODH and the service providers. In the revised BIA, the business impact is elaborated upon and more detail is given by the ODH. In total, ODH anticipates one hundred (100) businesses will participate in the HMG program through contract with ODH. The nature of the adverse impact includes additional time to comply with the new regulations, as well as affiliation and transition costs. Contractors of the Home Visiting program must become affiliated with a home visiting evidence-based model as a condition of becoming an approved provider. Transition costs arise if you are a Family & Children First Council who will not become a HMG Home Visiting

contractor before October 1, 2012; you shall transition children between July 1 and September 30, 2012 to an approved contractor to continue their HMG home visiting services. According to the ODH, the money provided in the subsidy agreement amounts to approximately \$500/child to receive services until the child is transitioned to his or her new service provider. However, ODH does not supply any actual dollar amounts in the BIA. It does express intent to provide funding for affiliation costs but again, no amount is listed.

During follow up conversations with ODH, it was determined that affiliation only applies to Home Visiting contractors, not the Early Intervention program and ODH will fund every new contractor \$2,500, the average cost of affiliation, once his or her affiliation is complete.

The ODH and service providers will both benefit by moving from the current system of non-competitive grants to Family & Children First Councils to a direct contractual relationship for the following reasons: (1) Fewer administrative costs, (2) Fewer layers of bureaucracy, (3) More money for services to families & children in local communities, (3) Higher accountability for performance and outcomes, (4) Maximum transparency, (5) Better communication in a direct relationship & less confusion, misunderstanding, and an (6) Open system for those willing and able to serve families & children.

### **Recommendations**

The CSI office recommends the following changes to the BIA:

1. Revise #14 (c) to more accurately reflect the time and costs associated with affiliation and to include the actual dollar amounts you plan to provide for affiliation costs of new providers.

### **Conclusion**

Based on the above comments, the CSI Office concludes that the Agency should implement the Recommendations listed above, and then proceed with the formal filing of this rule package with the Joint Committee on Agency Rule Review.

cc: Mark Hamlin, Lt. Governor's Office  
Wendy Grove, Ohio Department of Health