

**MEMORANDUM**

**TO:** Benjamin Anderson, Ohio Department of Job and Family Services

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

**DATE:** October 15, 2012

**RE:** **CSI Review – 5101:3-45 Criminal Record Check Rules**

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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 (BIA). This memo represents the CSI Office's comments to the Agency as provided for in ORC 107.54.

**Analysis**

The Ohio Department of Job and Family Services (ODJFS) submitted three rules to the CSI Office for review. Rules 5101:3-45-07 and 5101:3-45-08 are being rescinded and replaced and rule 5101:3-45-11 is new. This package implements the criminal records check requirements set forth in recently enacted House Bill 487, as discussed below.

The Governor's Office of Health Transformation (OHT) – in conjunction with the Departments of Aging, Health, Developmental Disabilities, and Job and Family Services – undertook a process to standardize criminal records check requirements across providers of home and community-based services. This process arose from statutory changes contained in HB 487.

OHT established a workgroup to resolve the gaps and inconsistencies in statutes and regulations governing criminal background checks and disqualifying offenses of workers providing Medicaid home and community-based services. The workgroup conducted three stakeholder meetings from July to August 2012 that included various interested parties and agency representatives.

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Numerous issues were addressed, including frequency of post-employment background checks, costs to providers, and the tiered proposals for disqualifying convictions.

After the public comment periods for the four agencies were completed, an additional change was made to reduce the burden on providers. Initially, providers had to keep a detailed administrative log on each applicant/employee. Now, the rules allow a provider to keep a roster with more limited information and in any format they wish to use.

The CSI Office is not suggesting any changes with respect to the rules or the BIA for the following reasons:

- No substantive comments were received from the public during the public comment period.
- The BIA submitted by ODJFS is accurate and complete and does not raise any ongoing issues.
- Generally, the rule package satisfactorily meets the standards espoused by the CSI Office.

### **Recommendation**

For the reasons explained above this office does not have any recommendations regarding this rule package.

### **Conclusion**

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

cc: Mark Hamlin, Lt. Governor's Office