

**MEMORANDUM**

TO: Tom Simmons, Ohio Department of Aging

FROM: Whitney Sullinger, Regulatory Policy Advocate

DATE: March 25, 2013

RE: **CSI Review – Assisted Living and Community Transition Services**

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 Aging (ODA) submitted two rules to the CSI Office for review. ODA reviewed rules 173-39-02.16 and 173-39-02.17 of the Ohio Administrative Code (OAC) as part of the five-year review process required by ORC 119.032, and is proposing amendments to both.

Rule 173-39-02.16 regulates the assisted living service program. The program was created in 2006 to provide a setting that gives residents a home-like environment in a community living environment. Examples of assisted living services include personal care, housekeeping, laundry, assistance with medication, coordination of meals, and non-medical transportation. ODA is proposing to amend rule 173-39-02.16 to clarify that the assisted living service includes the "coordination" of meals, not the meals themselves. Meals are currently considered a room and board expense and regulated by the Ohio Department of Job and Family Services. Minor rewording of the rule is also proposed so that the rule is consistent with the rest of the chapter.

Rule 173-39-02.17 regulates the community transition service which is part of the assisted living program. The service helps nursing home residents move into assisted living facilities or personal residences. Examples of community transition services include the purchase of essential household furnishings, window coverings, household supplies, food preparation items and linens. Proposed amendments include using the uniform definition for “community transition services” as supplied by the United States Administration on Aging (AOA), formatting/terminology changes, and a provision that providers are free to retain records electronically. ODA does not believe it is creating any new requirements for businesses because the proposed definition for “community transition services” consists of wording, rather than substantive, changes (e.g., “one-time expenses for setting up” vs. “non-recurring set-up expenses”). According to ODA, the AOA is promoting the universal definition for all fifty states to allow for better tracking and national data regarding service availability, utilization, and expenditures. The proposed amendment allowing records to be stored electronically will give flexibility to providers and reduce costs of record retention.

ODA contacted a significant number of stakeholders on multiple occasions to seek input on the rule package and made a technical correction based on feedback. No substantive comments were received during the official comment period. ODA states the proposed amendments do not create an adverse impact since some are technical and others contain no substantive differences. As for the rules themselves, ODA believes the best estimates for the cost of providing the services are the recently-reported average monthly expenses for which providers have billed the Department.

- Assisted living services: \$1,426 for services rendered.
- Community transition services: \$1,061 per job.

ODA sent a revised BIA to clarify that both rules included in the package were part of the five-year review process required by ORC 119.032. The CSI Office is not suggesting any changes with respect to the rule or the revised BIA for the following reasons:

- No substantive comments were received from the public during the public comment period.
 - One comment was received that addressed a similar rule regulated by a different state agency. ODA forwarded the comment to the appropriate agency.
- The revised BIA submitted by ODA 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 Department 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