MEMORANDUM

TO: Tom Simmons, Policy Manager and Regulatory Ombudsman, Ohio Department of Aging

FROM: Sydney King, Regulatory Policy Advocate

DATE: August 26, 2013

RE: **CSI Review – Chore; Home Maintenance, Modification, and Repair; Homemaker; and Personal Care Services (Rules 173-3-06.2, 173-3-06.3, 173-3-06.4, and 173-3-06.5)**

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 a rule package to the CSI Office for review consisting of four rules. Rules 173-3-06.2 (chore service), 173-3-06.3 (home-maintenance, home-modification, and home-repair services), 173-3-06.4 (homemaker service), and 173-3-06.5 (personal care service) outline requirements for provider agreements between service providers and ODA programs. The rule is reviewed as part of the five-year review process required by ORC 119.032. The rule package was filed with the CSI Office on June 4, 2013, and the comment period for the rules closed on June 16, 2013. Ten comments were received during the public comment period.

Rule 173-3-06.2 sets forth the requirements of a provider agreement for chore services. Chore services are services that improve, restore, or maintain a clean, sanitary, and safe living environment through the performance of tasks on the property where the consumer resides. These services are beyond the consumer's capability.

Rule 173-3-06.3 sets forth the requirements of a provider agreement for home-maintenance, home-modification, and home-repair services. These include services that provide critical maintenance of elements necessary to preserve the health and safety of a consumer in the consumer's home.

Rule 173-3-06.4 sets forth the requirements of a provider agreement for homemaker services. Homemaker services perform routine tasks to help a consumer achieve and maintain a clean, safe, and healthy environment. These can include planning and preparing meals, dusting furniture, and transportation.

Rule 173-3-06.5 sets forth the requirements of a provider agreement for personal care services. Personal cares services can include tasks that help a consumer to achieve optimal functioning with activities of daily living.

After discussions between the CSI Office and Aging, Aging submitted a revised BIA that details the adverse impact of each rule. Generally the impacts consist of licensing requirements, administrative costs, training requirements, and testing requirements.

Several amendments were made to each rule as part of the five-year rule review. According to the BIA, stakeholders were notified of the five-year review and comments were requested by the agency. Aging responded to comments about the adverse impact of administrative costs and unclear statutory language. In response to this stakeholder input, ODA amended sections to decrease administrative burdens and provide more clarity for provider agreement requirements.

Aging stated these rules are necessary to ensure provider agreements are entered into with qualified, licensed, and/or trained service providers. In conversations with Aging staff, it was stressed that the requirements safeguard against unqualified service providers caring for older Americans. They also stated that adversely impacted businesses have the opportunity to create orientation training and continued training that best fits their business models. In response to CSI concerns regarding employee manual requirements, Aging will amend the rule to decrease the adverse impacts.

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

- ODA used stakeholder input, public comments, and CSI suggestions to amend the rules to decrease the adverse impact.
- 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