

# CSI - Ohio

The Common Sense Initiative

## Business Impact Analysis

**Agency Name:** Ohio Department of Job and Family Services

**Regulation/Package Title:** Case Plan and Case Review Rules (ERF 112218)

**Rule Number(s):** 5101:2-38-03, 5101:2-38-06, 5101:2-38-07, 5101:2-38-10, 5101:2-39-01, and 5101:2-39-03.

**Date:** 2/14/2013

**Rule Type:**

☒ New

☒ Amended

☒ 5-Year Review

☐ Rescinded

The Common Sense Initiative was established by Executive Order 2011-01K and placed within the Office of the Lieutenant Governor. Under the CSI Initiative, agencies should balance the critical objectives of all regulations with the costs of compliance by the regulated parties. Agencies should promote transparency, consistency, predictability, and flexibility in regulatory activities. Agencies should prioritize compliance over punishment, and to that end, should utilize plain language in the development of regulations.

### **Regulatory Intent**

**1. Please briefly describe the draft regulation in plain language.**

5101:2-38-03 - **Protective supervision by PCPAs** contains the requirements that apply to the private child placing agency (PCPA) protective supervision cases. This new rule incorporates requirements previously outlined in rule 5101:2-39-30 of the Administrative Code which is being rescinded. Language has been updated to provide consistency and clarity and to correct revision date of JFS 01416 (rev. 1/2014) Semiannual Administrative Review for PCPA and JFS 01413 (rev. 8/2010) Comprehensive Assessment Planning Model – I.S. Case Review..

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5101:2-38-06 - **Required contents of a PCPA case plan document** sets forth the content requirements for private child placing agency (PCPA) case plans. This new rule incorporates requirements previously outlined in rule 5101:2-39-11 of the Administrative Code which is being rescinded. Language has been updated to provide consistency and clarity in language.

5101:2-38-07 - **PCPA case plan for children in custody or under court-ordered protective supervision** contains the requirements that apply to the private child placing agency (PCPA) case plans for children in custody or under protective supervision. This new rule incorporates requirements previously outlined in rule 5101:2-39-10 of the Administrative Code which is being rescinded. References for a child of Indian heritage or tribal eligibility have been added. Language has been updated to provide consistency and clarity, to correct paragraph references within the rule, and to correct the revision dates of JFS 01416 "Semiannual Administrative Review for Private Child Placing Agencies" (rev. 1/2014) in lieu of the JFS 01412 "Comprehensive Assessment and Planning Model - I.S. Semiannual Administrative Review (rev. 1/2014).

5101:2-38-10 - **Requirements for completing the semiannual administrative review** contains the requirements that apply to the public children services agency (PCSA) and private child placing agency (PCPA) for completing the semiannual administrative review. References for a child of Indian heritage or tribal eligibility have been added. This rule is being amended to provide consistency and clarity in language, to correct paragraph references within the rule, and to correct the revision dates of JFS 01412 "Comprehensive Assessment and Planning Model - I.S. Semiannual Administrative Review" (rev. 1/2014) and JFS 01416 "Semiannual Administrative Review for Private Child Placing Agencies" (rev. 1/2014).

5101:2-39-01 - **Removal of a child from the child's own home** contains the requirements that apply to the public children services agency (PCSA) and private child placing agency (PCPA) for completing the removal of a child from the child's own home. This rule is being amended to provide consistency and clarity in language, to correct paragraph references within the rule, and references for a child of Indian heritage or tribal eligibility have been added.

5101:2-39-03 - **Emergency removal of a child from substitute care placement** contains the requirements that apply to the public children services agency (PCSA) and private child placing agency (PCPA) for removing a child from substitute care placement. This rule is being amended to provide consistency and clarity in language and correct reference to rule 5101:2-39-10 of the Administrative Code which is being rescinded and replaced with rule 5101:2-38-07 of the Administrative Code.

## **2. Please list the Ohio statute authorizing the Agency to adopt this regulation.**

Rule number	Statutory Authority
5101:2-38-03	2151.33, 2151.353, 5103.03, 5153.16
5101:2-38-06	2151.412, 5103.03
5101:2-38-07	2151.412
5101:2-38-10	2151.416
5101:2-39-01	2151.412, 2151.421

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5101:2-39-03

2151.412, 2151.421, 5101.02, 5103.03, 5153.16

**3. Does the regulation implement a federal requirement? Is the proposed regulation being adopted or amended to enable the state to obtain or maintain approval to administer and enforce a federal law or to participate in a federal program?**

No. These rules do not implement a federal regulation and are not being amended to enable the state to obtain or maintain approval to administer and enforce a federal law or to participate in a federal program.

**4. If the regulation includes provisions not specifically required by the federal government, please explain the rationale for exceeding the federal requirement.**

Not applicable. These rules are not written as a requirement of federal law, nor do they exceed any federal requirements. Each of the rules is specific to child welfare and follows state statute to ensure the safety of the children in substitute care.

**5. What is the public purpose for this regulation (i.e., why does the agency feel that there needs to be any regulation in this area at all)?**

5101:2-38-03 – The purpose for this regulation is to provide the requirements that apply to the PCPA protective supervision cases to ensure reasonable efforts are made to provide support and services to children and families in their own homes to prevent removal and provide child safety. This new rule incorporates requirements previously outlined in rule 5101:2-39-30 of the Administrative Code which is being rescinded.

5101:2-38-06 - The purpose for this regulation is to provide the requirements for PCPA case plans and assist the family to provide a safe home for children. Requirements outline for the PCPA to document goals, outcomes, progress and assessments. This new rule incorporates requirements previously outlined in rule 5101:2-39-11 of the Administrative Code which is being rescinded.

5101:2-38-07 - The purpose for this regulation is to provide the requirements that apply to the PCPA case plans for children in custody or under protective supervision and assist the family to provide a safe home for children. This new rule incorporates requirements previously outlined in rule 5101:2-39-10 of the Administrative Code which is being rescinded.

5101:2-38-10 - The purpose for this regulation is to provide the requirements that apply to the PCSA and PCPA for completing the semiannual administrative review required by federal statute.

5101:2-39-01 - The purpose for this regulation is to provide the PCSA and PCPA requirements if a determination is made that a child cannot be safely maintained in the child's own home and ensure the child is provided safe out-of-home care.

5101:2-39-03 - The purpose for this regulation is to provide the requirements that apply to the PCSAs for removing a child from substitute care placement and ensure the child is provided safe out-of-home care. Requirements outline for the PCPA when it is necessary to remove a child from a placement setting.

**6. How will the Agency measure the success of this regulation in terms of outputs and/or outcomes?**

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in placement.

The Children Services Licensing Section of the Bureau of Accountability and Regulation monitors and enforces compliance with Ohio Administrative Code rules that govern PCPAs. Meeting these standards is required by state law and the Ohio Administrative Code.

PCPAs are certified to accept temporary, legal and permanent custody of children and to place children for foster care or adoption.

### **Development of the Regulation**

**7. Please list the stakeholders included by the Agency in the development or initial review of the draft regulation.**

**If applicable, please include the date and medium by which the stakeholders were initially contacted.**

In 2012, the State was awarded a three-and-a-half-year federal grant through the U.S. Department of Health and Human Services, Children's Bureau. ODJFS, Office of Families and Children, in partnership with stakeholders Partners for Ohio's Families (PFOF), have been working to examine and reform the State's child welfare service delivery system and the relationship with both public and private child welfare agencies. The work is being conducted through the Midwestern Child Welfare Implementation Center (MCWIC), a member of the National Child Welfare Training and Technical Assistance Network. Representatives from 88 county PCSAs, PCPAs and private non-custodial agencies (PNA) were invited and participated in the discussions and revisions.

**8. What input was provided by the stakeholders, and how did that input affect the draft regulation being proposed by the Agency?**

The rules went through the Clearance process on 9/6/13 through 9/20/13.

Comments which resulted in an edit were:

- Additional language was added regarding providing the family a copy of the handwritten Family Service Plan.
- Duplication of a paragraph was removed.
- Change in language was made to provide consistency in rules.
- Some comments involved the re-formatting of paragraph order.

Questions received involved definition of words, procedures, and federal law or statute.

Clearance comments were submitted from Carla Carpenter, State Office; Diana Theiss, Lucas Co.; Chip Spinning, Franklin Co.; Stacy Cox, Champaign Co.; Barbara Cline, Athens Co.; Melanie Allen, Sandusky Co.; Tamara Chapman Wagner, Cuyahoga; and Tim Taylor, Geauga Co. Responses were sent to the participants.

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**9. What scientific data was used to develop the rule or the measurable outcomes of the rule? How does this data support the regulation being proposed?**

Not applicable.

**10. What alternative regulations (or specific provisions within the regulation) did the Agency consider, and why did it determine that these alternatives were not appropriate? If none, why didn't the Agency consider regulatory alternatives?**

There were no alternatives considered for these rules because during the vetting process all parties involved were satisfied with the rules and because the rules are driven by statute.

**11. Did the Agency specifically consider a performance-based regulation? Please explain.**

ODJFS did not consider a performance based initiative, but rather followed statutory language prescribing that the department set standards to ensure the well-being of every child in temporary custody.

**12. What measures did the Agency take to ensure that this regulation does not duplicate an existing Ohio regulation?**

The JCARR prong for invalidation: "Rules do not conflict with a rule of its own or another rule-making agency" has been an ongoing deterrent to duplication. JFS legal staff and rule developers diligently review rules to assure there is no duplication of an existing Ohio regulation.

**13. Please describe the Agency's plan for implementation of the regulation, including any measures to ensure that the regulation is applied consistently and predictably for the regulated community.**

The rules do not prescribe anything that would not be applied consistently. ODJFS licensing/certification specialists review the agencies to ensure the regulations are applied consistently and the specialists offer technical assistance in areas of inconsistency.

**Adverse Impact to Business**

**14. Provide a summary of the estimated cost of compliance with the rule. Specifically, please do the following:**

**a. Identify the scope of the impacted business community;**

PCPAs must be certified by ODJFS. Twenty-eight PCPAs are certified by ODJFS.

**b. Identify the nature of the adverse impact (e.g., license fees, fines, employer time for compliance); and**

Failure to comply with rule may result in denial or revocation of certification. The adverse impact involves the time and cost of preparing and maintaining a case plan; providing supporting services; reporting information on the JFS 01416, filing court requests; amending case plans, providing copies of the SAR summary; requesting credit reports, developing a visitation plan; providing written notice of any case plan

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changes; completing face-to-face contacts, and conducting semiannual administrative reviews.

Forms to be completed in order to comply with rules:

JFS 01416 “Semiannual Administrative Review for Private Child Placing Agencies” (rev. 1/2014)

JFS 01413 “Comprehensive Assessment Planning Model – I.S., Case Review” (rev. 8/2010)

JFS 01412 “Comprehensive Assessment and Planning Model – I.S., Semiannual Administrative Review (rev. 1/2014)

Forms are available at: <http://www.odjfs.state.oh.us/forms/inter.asp>

**c. Quantify the expected adverse impact from the regulation.**

The adverse impact is regulated by the time spent to adhere to rule regulations and reporting the information necessary for rule compliance. In order to achieve the desired outcomes of child protective services (i.e., child safety, child permanency, child and family well-being), interventions must be well planned and purposeful. These outcomes are achieved through a case plan, which follows the family assessment and sets forth goals and outcomes and describes how the family will work toward these outcomes. Additionally a safety plan may be determined and a concurrent permanency plan. This is developed collaboratively, when possible, among the CPS case worker, the family, and community professionals who will provide services to the family.

It is the worker’s role to arrange, provide, and coordinate the delivery of services to children and families. Services are selected to help families achieve goals and outcomes and should be based on an appropriate match to the family’s goals and should use best practice principles. When needed services are not readily available or accessible, an interim or alternative plan must be made with families.

The case plan may take thirty minutes or more to complete. The plan identifies risks and problematic behaviors, as well as the strategies and interventions to facilitate the changes needed, by identifying tasks, goals, and outcomes. The worker identifies strategies with the family; that addresses the effects of maltreatment and changes of behaviors or conditions contributing to risk. The case plan provides a clear and specific guide for the family to work towards changing the behaviors and conditions that influence risk. Family meetings are held and may include supportive relatives. Family meetings develop the willingness of family members to accept the services suggested in the plan, enhance relationships between professionals and families, and maintain continuity and connection through kinship rather than foster care placements. These meetings are based on the family’s strengths and encourage problem solving skills. The worker may have team meetings or consultation with administrators. The family is engaged in the decisions regarding outcomes, goals, and tasks along with collaboration between the caseworker, family network, and other providers. With all that said there is not a dollar amount that can be placed on the workers time.

**This following is not an all-inclusive list but are some factors which affect the workers time in developing a case plan.**

- Worker's skill and experience to assess and develop a case plan
- Workload at the agency
- Family's engagement and number of members involved
- Level of safety and family behaviors
- Ability of the family to understand, to participate, and to articulate
- Services available to assist the family and the family's willingness to accept them
- Obtaining agreement and participation of tasks
- Difficulty gathering family members together
- Allowing the family to discuss their issues and problems

**The following is not all-inclusive but are some hard costs that vary.**

- Transportation cost of vehicles and fuel
- Distance to travel and number of time the worker must travel
- Salaries of individual workers
- Agencies that are metro vs. rural have many different costs
- Costs if service is not available local and services are provided out of county
- Electronic tablets to take in the field vs. completing forms at the office
- Completing the forms in writing in the family's home
- Completing the forms and SACWIS in the office
- Consultation and arrangement with service providers

Both of these areas affecting cost pertain to alternative response and non-court involved traditional response cases. This is a simplification of cooperative families who are engaging with the agency with no special circumstances. I am also not including the 30-45 days (depending on whether alternative response or tradition response) to complete the family assessment which provides the information used to develop a case plan. I have not discussed additional referrals, assessing safety at any time the worker deems is necessary for the safety of a child, cases that change from alternative response to traditional response, from protective supervision to child removal, health, educational, legal status, placement, adoption, independent living and other reasons a case plan amendment is required outside of the case review. A case amendment may take thirty minutes or more to complete. Case reviews are required every 3 months and may take thirty minutes or more to complete. The semiannual administrative reviews are required every six months and may take thirty minutes or more to complete.

There are situations where the level of safety requires court intervention. One type of case would be a protective supervision case: the child remains in the home, in the parents' custody, but with court involvement. Some cases rise to the level of safety where the child is removed from the home, legal status changes, and the court must be involved. All of these cases may require additional procedures such as the Fostering Connections Act requiring agencies to identify, locate, and notify relatives and kin within 30 days of the

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child's removal. Siblings removed are to be placed in the same substitute care placement which may take more time to find suitable placement. Visitation plans are part of a case plan. If siblings are not placed together, the worker must complete a visitation plan for frequent contact between siblings or document why it is not in the best interest of the child. In addition the worker must develop the visitation plan for the parents. Health and education documentation is part of the case plan. A child should be maintained in the same school the child was attending at the time of removal and placement may be outside of the school district. Transportation arrangement may need to be made and further cost for the transportation may incur. A placement may not be suitable for a child and the child must be moved to another substitute care placement which would require an amendment to the case plan. Any changes in services, legal status, and placement require an amendment to the case plan.

Reviewing a case is an assessment of the ongoing process that begins with the first client contact, continues throughout the life of the case, and should incorporate reports from other service providers. When evaluating family progress, caseworkers focus on:

- ensuring the child's safety;
- reducing the risk of maltreatment,
- addressing any of the effects of maltreatment on the child and family,
- achieving the goals and tasks in the case plan, and
- achieving family-level outcomes.

A worker assesses the safety of the children at each home visit. The cost of a case plan can vary from:

- family to family,
- worker to worker,
- case to case,
- agency to agency,
- and any variation of the above.

Many factors affect the case planning and case reviewing. Each family's case plan is different. A case plan may last a week to thirty days or much longer before it is closed. There is no way to attach a dollar estimate to any type of case due to the many evolving factors.

**15. Why did the Agency determine that the regulatory intent justifies the adverse impact to the regulated business community?**

The adverse impact of these rules is necessary to ensure the safety of children in substitute care.

**Regulatory Flexibility**

**16. Does the regulation provide any exemptions or alternative means of compliance for small businesses? Please explain.**

There is no alternative means of compliance.

**17. How will the agency apply Ohio Revised Code section 119.14 (waiver of fines and**

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**penalties for paperwork violations and first-time offenders) into implementation of the regulation?**

There are no fines or civil penalties for non-compliance. Non-compliance results in the loss of certification.

**18. What resources are available to assist small businesses with compliance of the regulation?**

ODJFS has a regional licensing specialist assigned to provide technical assistance. Electronic manuals are available for viewing on the internet. Ohio has multi-disciplinary teams to provide direct assistance or training when needed. Identifying costs as they relate to time spent completing forms or reviews depends on many different variables and factors are involved. Cost cannot be approximated. A few variables are:

- Worker's skill and experience to assess and develop a case plan
- Workload at the agency
- Family's engagement and number of members involved
- Level of safety and family behaviors
- Ability of the family to understand, to participate, and to articulate
- Services available to assist the family and the family's willingness to accept them
- Obtaining agreement and participation of tasks
- Difficulty gathering family members together
- Allowing the family to discuss their issues and problems