

**MEMORANDUM**

TO: Michael Lynch, Ohio Department of Job and Family Services

FROM: Sydney King, Regulatory Policy Advocate

DATE: April 14, 2014

RE: **CSI Review – FYR Chapter 5101:2-5 (OAC 5101:2-5-04, 5101:2-5-09.1, 5101:2-5-11, and 5101:2-5-18)**

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

This rule package consists of four amended rules being proposed by the Ohio Department of Job and Family Services (ODJFS) pursuant to the five-year review requirement of ORC 119.032. The rule package was filed with the CSI Office on February 28, 2014 and the comment period for the rules closed on March 8, 2014. No comments were received during the public comment period.

ODJFS regulates Private Noncustodial Agencies (PNA), Public Children Services Agencies (PCSAs) and Private Child Placing Agencies (PCPAs). The proposed rule package provides the requirements for recertification of an agency, criminal record checks for prospective employees and foster caregivers, waivers and variances, and complaint procedures.

According to the BIA, the rule package was reviewed during the Midwest Child Welfare Implementation Center (MCWIC) meetings. Stakeholders included Ohio Association of Child Caring Agencies (OACCA), the Ohio Family Care Association, representatives from county agencies, and the Ohio Council of Behavioral Health and Family Services Providers. Stakeholders

provided suggested amendments and ODJFS amended the rules based on feedback. ODJFS also provided a clearance comment period on November 18, 2013 and received one comment. ODJFS responded to the comment by providing an explanation for the language. No comments were received during the CSI public comment period.

The BIA identifies the impacted industry as foster care agencies. The ODJFS recertification process requires the agency to hire a licensed public accounting firm to perform a financial statement audit. The audit must demonstrate the agency is operating in a fiscally accountable manner in order to be recertified. The amended rule reflects statutory changes which were proposed by the CSI Office and included in recently-enacted House Bill 59, reducing the fiscal impact of the audit requirement. The agency is also required to complete an application that is available online. The application requires the submission of a list of policies for recertification. ODJFS estimates the audit can cost several hundred dollars.

The BIA also identifies the financial costs and administrative time needed for the required criminal background checks, and the submission of documentation for waivers and variances as additional adverse impacts. The average cost for a Bureau of Criminal Investigations check is \$40 and the average cost for the FBI criminal records check is \$50. Agencies are allowed to pass the costs of the criminal background checks to the prospective employees and foster caregivers.

The BIA states the rules are necessary in order to ensure the safety of children in substitute care. According to ODJFS, the criminal background checks and financial audits are required by statute. Ohio Revised Code 5103.0323 requires the financial audit of agencies and Ohio Revised Code 2151.86 requires the criminal background checks.

After reviewing the proposed rules and the BIA, the CSI Office has determined that the rule package satisfactorily meets the standards espoused by the CSI Office, and the purpose of the rules are justified.

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