

**MEMORANDUM**

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

FROM: Sydney King, Regulatory Policy Advocate

DATE: February 4, 2014

RE: **CSI Review – Kinship Placements (OAC 5101:2-42-18)**

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 one amended rule 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 January 1, 2013, and the comment period for the rule closed on January 22, 2013. Three comments were received during the public comment period. An additional rule, Rule 5101:2-40-04, was mistakenly included in the rule package but ODJFS did not intend for CSI to review it. Therefore, the CSI analysis is only for Rule 5101:2-42-18.

The proposed rule provides the requirements for the placement of a child with relative and nonrelative substitute caregivers. Substitute care is care provided for a child apart from a parent or guardian, while the child's custody is held by a Public Children Services Agency (PCSA) or Private Child Placing Agency (PCPA). Rule 5101:2-42-18 contains specific requirements for PCPAs and PCSAs to approve a relative or nonrelative as a substitute caregiver.

According to the BIA, the rule package was reviewed during the Partners For Ohio's Families

77 South High Street | 30th Floor | Columbus, Ohio 43215-6117
CSIOhio@governor.ohio.gov

(PFOF) Initiative. The PFOF Initiative included meetings throughout the state with public and private agencies. During stakeholder outreach, the rule was amended based on suggestions received by the PFOF committee. ODJFS also provided a clearance comment period to receive feedback from stakeholders during drafting and again amended the draft rule based on feedback. During the public comment period, the rule received three comments with suggestions and requests for clarification. ODJFS responded by amending the rule, providing clarification, and explaining why some suggested amendments were not appropriate.

The BIA identifies the rule's adverse impacts and focuses on the impact to PCPAs because the PCSAs, as public entities, are not businesses. However, the impacts to both entity types are similar. In order to obtain and maintain certification with ODJFS, the requirements set forth in the rule must be met. Therefore, noncompliance could result in revocation of certification. ODJFS provided detailed descriptions of the requirements and associated costs to PCPAs in the BIA. This includes time and costs associated with collecting information about members living in a substitute care household, assessing the safety of the home, providing prospective caregivers with information about financial assistance and Medicaid coverage, obtaining background checks on adults living in the substitute care house, completing JFS forms, maintaining documentation, and conducting home assessment reviews.

ODJFS states the requirements are necessary for the safety of children in substitute care. The regulations ensure that children are placed in substitute custody arrangements that are in the best interest of the child

After reviewing the proposed rule and the BIA, the CSI Office has determined that the rule satisfactorily meets the standards espoused by the CSI Office, and the purpose of the rule is 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