

# CSI - Ohio

The Common Sense Initiative

## Business Impact Analysis

Agency Name: Ohio Department of Job and Family Services

Regulation/Package Title: Amendment to Social Services Rules in Ohio Administrative Code (OAC) Chapter 5101:2-44

Rule Number(s): 5101:2-44-06 and 5101:2-44-14

Date: 3/13/14

**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☐ Rescinded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.**

Please include the key provisions of the regulation as well as any proposed amendments.

5101:2-44-06 This rule outlines the eligibility requirements for the state adoption maintenance subsidy program.

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5101:2-44-14 This rule outlines the eligibility process and procedures for applying for a state adoption assistance loan for adoption-related expenses.

**Note:** The amendments to these rules are primarily to make clarifying language changes and to correct typographical errors; however, new form requirements have been added that may constitute additional time for Private Child Placing Agencies (PCPAs) to complete.

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

Rule Number	Statutory Authority
5101:2-44-06	5153.163
5101:2-44-14	3107.018, 5101.143

**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?**

If yes, please briefly explain the source and substance of the federal requirement. Rules 5101:2-44-06 and 5101:2-44-14 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.**

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)?**

The public purpose of rule 5101:2-44-06 is that for an adoptive parent to be eligible to receive state adoption maintenance subsidy for an adoptive child, the child had to have been in the permanent custody of a public children services agency or a private child placing agency and legally available for adoption. The state funded adoption subsidy program is intended to make permanent homes possible for children with special needs. It is negotiated on a case-by case basis and is frequently granted if a child with special needs is ineligible for the federal adoption assistance program.

The public purpose of rule 5101:44-14 is for the state adoption loan fund to provides loans to prospective adoptive parents residing in Ohio to cover adoption expenses incurred by, or on behalf of, a prospective adoptive parent and for which the prospective adoptive parent carries the ultimate liability for payment. This rule does not apply to step-parent adoptions.

- 6. How will the Agency measure the success of this regulation in terms of outputs and/or outcomes? Outcomes will be measured against the criteria specific to the rule's content and through the successful placement of special needs children that may otherwise face barriers to the adoption without financial assistance.**

### **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 public children service agencies (PCSAs), private child placing agencies (PCPAs) and private non-custodial agencies (PNAs) 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 1/21/14 through 2/04/14. There were two comments.

Comments which resulted in an edit were: adding the agency's name above the title of the form, and changing paragraph referencing (B) to (A).

Input from the stakeholders was provided during the comment period and changes were made.

- 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.**

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- 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?**

No alternative regulations were considered at this time of amending rules for clarifying, non-substantive changes.

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

**Performance-based regulations define the required outcome, *but don't dictate the process the regulated stakeholders must use to achieve compliance.*** ODJFS did not consider a performance based initiative, but rather followed statutory language prescribing that the Department set standards to ensure the safety and well-being of every child in care being prepared for adoption placement.

- 12. What measures did the Agency take to ensure that this regulation does not duplicate an existing Ohio regulation?** These rules were reviewed by Division specialists and legal staff at ODJFS prior to the clearance process to ensure they do not duplicate any existing Ohio regulations.

**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 specialists review the agencies to ensure the regulations are applied consistently and they offer technical assistance in areas of inconsistency.

### **Adverse Impact to Business**

- 13. 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;** Rules 5101:2-44-06 and 5101:2-44-14 contain requirements for all private child placing agencies (PCPAs), and private non-custodial agencies (PNA).

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

**Non-compliance may result in revocation or loss of certification. The adverse impact includes specific expenditures and the report of information.**

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

**The adverse impact can be quantified in terms of dollars, hours to comply, or other factors; and may be estimated for the entire regulated population or for a "representative business." Please include the source for your information/estimated**

**impact.** For a child to be determined for eligibility for the state adoption maintenance subsidy (SAMS) program, the child should be in permanent custody of the private child placing agency. The child is a special need's child; the adoptive parents have completed the JFS 01613 "Application for state Adoption Subsidy; and the PCSA has approved or denied the application.

A PCSA or PCPA has approved the adoptive parent for adoptive placement pursuant to rule 5101:2-48-16 of the Administrative Code. If a PCPA approved the adoptive placement, the PCPA shall provide the PCSA with the following:

(a) The JFS 01673 "Assessment for Child Placement (Homestudy)" (rev. 6/2011) or the JFS 01692 "Application for Adoption of a Foster Child" (rev. 6/2009).

(b) JFS 01654 "Adoptive Placement Agreement" (rev. 10/2001).

(c) JFS 01616 "Social and Medical History" (rev. 6/2009).

Costs to fill out the forms will vary from county to county, depending upon their business model. It is estimated these forms will take anywhere from fifteen minutes to one-half hour to complete.

- 14. Why did the Agency determine that the regulatory intent justifies the adverse impact to the regulated business community?** The regulatory intent justifies the financial impact PCPAs may incur as a result of time spent completing JFS forms because the forms help to ensure the safety and well-being of children in care who are being readied and prepared for adoption.

### **Regulatory Flexibility**

- 15. Does the regulation provide any exemptions or alternative means of compliance for small businesses? Please explain.** There are no alternative means of compliance with these rules.
- 16. How will the agency apply Ohio Revised Code section 119.14 (waiver of fines and penalties for paperwork violations and first-time offenders) into implementation of the regulation?** For rules 5101:2-44-06 and 5101:2-44-14 there are no fines or civil penalties for non-compliance. Non-compliance may result in loss of licensure.
- 17. What resources are available to assist small businesses with compliance of the regulation?** The CDJFS enforces the rules set forth by ODJFS. ODJFS provides technical assistance through technical assistance staff, eManuals, and the Help Desk.

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eManuals for children in substitute care located at:

<http://emanuals.odjfs.state.oh.us/emanuals/>

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