

**MEMORANDUM**

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

FROM: Sydney King, Regulatory Policy Advocate

DATE: April 17, 2014

RE: **CSI Review – Substitute Care FYR (5101:2-42-04, 5101:2-42-64, 5101:2-42-65, 5101:2-42-66.1, 5101:2-42-66.2, 5101:2-42-71, and 5101:2-42-93)**

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 seven 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 20, 2014 and the comment period for the rule closed on February 27, 2014. No comments were received during the public comment period.

ODJFS regulates Private Noncustodial Agencies (PNAs), Public Children Services Agencies (PCSAs) and Private Child Placing Agencies (PCPAs) when performing substitute care services. A child is placed in substitute care when a natural birth family has been found to no longer be an appropriate caregiver to the child. The State of Ohio facilitates placement of the child in a setting where the child's mental, physical, and emotional health is given paramount consideration. Because of the seriousness of these actions and the importance of placing a child in a healthy substitute care setting, ODFJS highly regulates the agencies to protect the child's health and well-being.

The rule package provides requirements for assuming and retaining custody of a child, arranging

pre-placement services, caseworker visitation, coordinating and documenting comprehensive health care for children in substitute care, approving adult supervised living arrangements, and working with the court to modify the child's placement.

According to the revised BIA, the rule package was reviewed during the Midwest Child Welfare Implementation Center (MCWIC) meetings. Stakeholders included representatives from 88 county PCSAs, PCPAs and PNAs. Stakeholders provided input on potential revisions and amendments to the rules. ODJFS responded to clearance comments by providing explanation and clarity. No comments were received during the CSI public comment period.

The revised BIA identifies the adverse impacts as the administrative costs associated with compliance but focuses on the impact to PCPAs and PNAs because the PCSAs, as public entities, are not businesses. In order to obtain and maintain certification with ODJFS, the requirements set forth in the rule must be met. ODJFS states identifying the actual costs of the requirements is "nearly impossible to approximate" due to the many variables. PCPAs and PNAs are required to complete and submit forms, arrange pre-placement services for children in substitute care, coordinate and document health care, maintain and provide records when requested, review and evaluate applications for adult-supervised arrangements (living arrangements with a pregnant minor or minor parent), and review changes to placements. Additionally, the rules require caseworkers to perform several visitations and follow-ups once a child is placed in substitute care.

During the review, the CSI office inquired about the approximate time necessary to complete the visitations and follow-ups and a caseworker's estimated hourly wage. Additional information was requested to understand the costs associated with completing forms, providing medical screenings, and potential court costs. ODJFS states the employees tasked to perform the services are salaried and earn on average \$38,000.

ODJFS also submitted a revised BIA on April 14, 2014 to provide a more detailed justification for the adverse impacts. ODJFS states the rules are necessary to ensure the rights of parents and the safety of children in substitute care. For example, agencies are required to facilitate a medical screening within five days of placement. Additionally, the parent's rights are protected by requiring the agencies to modify the child's substitute care with the court. This allows for an open judicial process that the parents can participate in.

After reviewing the proposed rule and the revised 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 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