

**MEMORANDUM**

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

FROM: Sydney King, Regulatory Policy Advocate

DATE: August 29, 2014

RE: **CSI Review – Foster Care Maintenance (OAC 5101:2-47-23.1)**

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 rule¹ 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 July 1, 2014 and the comment period for the rule closed on July 8, 2014. ODJFS provided a revised BIA on August 7, 2014.

The rule package addresses contract and contract monitoring requirements for public agencies that contract for substitute care with a private agency provider. The rule package contains a master contract agreement for public and private agencies. The previous model contract was not being utilized and therefore did not create uniformity in contracting with the private agencies. Because of the dated and under-utilized model contract agreement, public and private agencies were incurring increasing legal, record maintenance, and monitoring costs.

According to the BIA, ODJFS began engaging in conversations about the master contract with

¹ The rule is being amended by more than 50 percent; therefore, the Legislative Service Commission requires that the existing rule be rescinded and replaced by a new rule that has the same rule number.

public agencies and representatives from various private agencies after it was notified that public agencies were utilizing nearly thirty versions of the contract. In November 2011, a subcommittee of county agencies and private agencies was formed to develop a new standardized contract. The rule and master contract agreement submitted to CSI is a result of the two-year discussions.

Prior to the rule-filing with the CSI Office, the Ohio Association of Child Caring Agencies (OACCA) expressed concerns that the developed contract would not be mandated and allow for unlimited amendments in the contract's addendum. According to OACCA, prohibiting a portion of the contract terms from amendment would resolve the initial issue; nearly thirty versions of the model contract utilized by the public agencies. The CSI Office facilitated discussions between OACCA, ODJFS, and county agencies to better understand if mandating contract language was an option. ODJFS stated that many counties will utilize the new master contract agreement without change and the contract subcommittee will revisit the issue in one year and develop language to address areas that are more frequently amended. County agencies expressed opposition to mandating language due to the many local, state, and federal requirements that they must comply with. Because of ODJFS's commitment to review the use of the new master contract agreement and the compliance issues for county agencies, CSI communicated to ODJFS to proceed with filing of the rule without the mandated contract language.

During the CSI public comment period, OACCA submitted a comment suggesting ODJFS require public agencies to submit the master contracts with addendums in order to monitor and review amendments. OACCA also suggested a requirement for the contract subcommittee to meet annually to review the effectiveness of the master contract agreement. ODJFS met with OACCA separately explaining the statewide automated child welfare information system (SACWIS) will be able to query all contracts or contract addenda and ODJFS is committed to the annual review. OACCA communicated to CSI that it is satisfied with the response. The CSI Office followed up with ODJFS to determine if public agencies are currently required to input the contracts and addenda to SACWIS. ODJFS stated that "for purchased care the contract information must be entered into SACWIS in order for the public agency to even enter a placement, set up services for the child, pay the provider and receive reimbursement and developers will be enhancing the system to be able to add the ability to enter the new contract language including the ability to have addendums."

Upon review of the proposed rule and 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 amendments 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