

**MEMORANDUM**

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

**FROM:** Sydney King, Regulatory Policy Advocate

**DATE:** April 27, 2015

**RE:** **CSI Review – Chapter 48 Rules Five-Year Review (5101:2-48-13, 5101:2-48-22, 5101:2-48-23, and 5101:2-48-24)**

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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) § 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 statutory five-year review requirement. The rule package was filed with the CSI Office on April 6, 2015 and the comment period for the rule closed on April 13, 2015.

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 PCPAs, PCSAs, and PNAs regarding the consideration of race, color, or national origin for adoptions; maintenance of the adoptive family case record; and procedures for complaints from prospective adopting parents.

According to the BIA, the rule package was reviewed in 2012 during the Partners for Ohio Families meetings. Stakeholders included the Ohio Association of Child Caring Agencies (OACCA), the Ohio Family Care Association, the Ohio Council of Behavioral Health and Family Services Providers, and representatives from county, state, and private agencies. During the meetings, stakeholders reviewed several rule packages by group. The groups were divided by subject matter and dedicated a significant amount of time to each rule package. Stakeholders provided input on potential revisions and amendments to the rules. ODJFS also provided a clearance comment period to allow for additional input. One comment requesting an amendment to the rule package was received during the CSI public comment period and ODJFS responded by providing an explanation about why incorporating the suggestion was not possible.

The 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 addition to the administrative costs, private agencies may have to hire a licensed professional to perform an independent assessment when race, color, or national origin is a consideration in a child's adoption proceedings. The rules generally prohibit the consideration of race, color, and national origin in adoption but allow it in specific circumstances. The administrative costs include completing required forms and documents, maintaining the adoptive family case record, and developing written procedures for addressing complaints from prospective adoptive parents.

ODJFS provided several justifications for the rule package's adverse impacts. The requirements ensure families and children are not discriminated against, ensure that adoption case records are complete with necessary information for the child's well-being, and allow prospective adoptive parents to request a review if they have a complaint with an agency decision.

### **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