

**MEMORANDUM**

TO: Trudy Rammon, Ohio Department of Job and Family Services

FROM: Sarah JanTausch, Regulatory Policy Advocate

DATE: February 28, 2017

RE: **CSI Review – Assessment of Placements with Relative or Nonrelative Caregivers (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 rule submitted pursuant to the statutorily-required five-year rule review by the Ohio Department of Job and Family Services (ODJFS). It was submitted to the CSI Office on February 7, 2017 and the public comment period was held open through February 13, 2017.

This rule sets forth placement requirements and assessment of relative and non-relative caregivers for children who are unable to remain in their own homes. Amendments to this rule include changes to provide clear timelines for initiation and completion of the initial assessment of caregivers, notification from the agency on the approval or denial of a potential caregiver, and any disqualifying offenses and rehabilitation standards. This rule has been revised to allow greater flexibility for the impacted businesses (agencies) with regard to the selection and approval of caregivers who may not meet standards espoused by adoptive caregivers or licensed foster caregivers. Additionally, the revised rule now requires all agencies to use the same assessment process.

The ODJFS Children and Family Services Plan (CFSP) workgroup met and reviewed the rules. Stakeholders included county agency staff, professionals from the Institute for Human Services, and professionals from the Waiting Child Fund. During early stakeholder outreach, the workgroup established that requirements should be as minimal as possible, while safeguarding the children placed in relative or nonrelative substitute caregiver supervision. To simplify processing and compliance, the workgroup recommended that all agencies use the same form and that ODJFS provide an up-to-date guidance document. Lastly, the group identified common barriers to approving qualified caregivers due to the disqualifying offense convictions. After reviewing federal regulations, the decision was made to reduce the restrictions to allow local agencies more flexibility in applying rehabilitation standards to approve placement, if that placement is in the best interest of the child.

The rules also went through the ODJFS pre-clearance and clearance processes and several comments were received related to the timeframes, standards, and definitions; the rules were revised per stakeholder feedback. Two comments were received during the CSI comment period and no revisions were made to the rules. One comment requested clarification and instructions pertaining to a section of the rule and ODJFS provided information. The second comment from a local children services agency requested a waiver or exemption from the fingerprinting requirement for residents in a placement location that are elderly, disabled, or critically ill and do not provide any childcare. ODJFS responded indicating that exemptions or waivers for this rule are not permitted and instructed the local agency to work with its legal counsel to discuss possible compliance options.

The rules contain requirements for all 28 private child placing agencies Ohio. Adverse impacts from this rule include time associated with compliance and reporting of information as well as specific expenditures. The regulated agencies are required to ensure the safety of the caregiver, the placement location, and all individuals residing in the placement location. There is time associated with the interviews and inspections and reporting. Agencies must ensure fingerprints are obtained for BCI and FBI background checks. If the agencies choose to pay for this service they will be charged approximately \$25 per adult. Additional impact from non-compliance can occur in the form of revocation or loss of certification. According to the BIA, the adverse impact associated with this rule is necessary to ensure the safety of children who are placed with a relative or nonrelative substitute caregiver that is not certified as a foster caregiver.

Following review of the draft rules and BIA, it has been determined that the standards espoused by the CSI Office have been met, and the adverse impacts of the draft rules are justified.

Recommendations

For the reasons discussed above, the CSI Office does not have any recommendations for this rule package.

Conclusion

Based on the above comments, the CSI Office concludes that the Ohio Department of Job and Family Services 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