



MEMORANDUM

TO: Tom Simmons, Ohio Department of Aging

FROM: Travis Butchello, Regulatory Policy Advocate

DATE: April 28, 2017

RE: **CSI Review – Ombudsman Program: Bed Fees (OAC 173-14-27 and 173-14-28)**

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This rule package consists of one rescinded and one new rule proposed by the Ohio Department of Aging (ODA) for review under the statutory five-year rule review requirement. The rule package was submitted to the CSI Office on March 24, 2017 and the public comment period was held open through April 9, 2017. No public comments were received during this time.

ODA is seeking to change the rule number for the bed fee collecting guidelines rule. Because the electronic rule filing system does not allow this to be an amendment, ODA must rescind the previous rule and create a new rule with the new rule number. The new rule pertains to bed fees collected by ODA as part of the ombudsman program. Specifically, the changes from the rescinded rule include terminology clarifications, grammar edits, and the removal of redundant provisions. In addition, the rule lengthens the filing requirement for ODA to notify the Attorney General of an overdue bed fee obligation. The current rule states ODA must certify the overdue collection of unpaid bed fee obligations, to the Attorney General, within 45 days after the invoice is sent to the nursing home or residential care facility (RCF). The new rule extends the period to 120 days.

As part of the early stakeholder outreach process, ODA notified numerous nursing home and RCF associations. Stakeholders expressed their praise for the expansion of the certification timeline to 120 days and noted the extension would be beneficial for all providers. No comments were received during the CSI public comment period.

The rule impacts Ohio's 1,000 nursing homes and over 600 RCFs. The impacts include cost of the fee itself, which is determined to be \$6 per bed as mandated by the ORC, and doubling of the individual bed fee if the debt is not paid within 90 days after the last day of the certification period. ODA notes in the BIA that the new rule is justified because they must impose bed fee requirements pursuant to ORC 173.26 and by extending the period for certification, fewer entities will receive financial penalties for lack of payment. Lastly, the collected bed fees fund the regional long-term care ombudsman program, which investigates and helps to resolve resident complaints in nursing homes and RCFs across the State.

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 Ohio Department of Aging should proceed with the formal filing of this rule package with the Joint Committee on Agency Rule Review.