

CSI - Ohio

The Common Sense Initiative

Business Impact Analysis

Agency Name: Ohio Department of Health

Regulation/Package Title: Help Me Grow Home Visiting

Rule Number(s): Rescind: 3701-8-02; 3701-8-02.1; 3701-8-03; 3701-8-04; 3701-8-06, 3701-8-06.1, 3701-8-06.2, 3701-8-07; 3701-8-07.1; 3701-8-08.1; 3701-8-09; 3701-8-10; 3701-8-10.1; 3701-8-10.2. NEW: 01, -02, 03, -04, -05, -06, -07, -08, -09, -10. AMENDED: 3701-8-01

Date: July 18, 2017

Rule Type:

☒ New

☒ Amended

☒ Five Year Review

☒ Rescinded

The Common Sense Initiative was established by Executive Order 2011-01K and placed within the Office of the Lieutenant Governor. Under the CSI Initiative, agencies should balance the critical objectives of all regulations with the costs of compliance by the regulated parties. Agencies should promote transparency, consistency, predictability, and flexibility in regulatory activities. Agencies should prioritize compliance over punishment, and to that end, should utilize plain language in the development of regulations.

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Regulatory Intent

1. Please briefly describe the draft regulation in plain language.

Please include the key provisions of the regulation as well as any proposed amendments.

Draft Ohio Administrative Code Chapters 3701-8-01 through 3701-8-10 outline the requirements of home visiting service delivery for ODH funded programs. The regulations outline participant and provider eligibility, personnel requirements, quality assurance and monitoring, record keeping, rights and privacy practices, and criteria for reimbursement.

2. Please list the Ohio statute authorizing the Agency to adopt this regulation.

Ohio Revised Code 3701.61

3. Does the regulation implement a federal requirement? Is the proposed regulation being adopted or amended to enable the state to obtain or maintain approval to administer and enforce a federal law or to participate in a federal program?

If yes, please briefly explain the source and substance of the federal requirement.

Yes. By requiring the use of evidence-based practices as prescribed by Social Security Act, Title V, Section 511 (42 U.S.C. 711), the state of Ohio maintains eligibility for additional funding from the federal Maternal, Infant, and Early Childhood Home Visiting grant.

4. If the regulation includes provisions not specifically required by the federal government, please explain the rationale for exceeding the federal requirement.

Rule does not exceed the minimal federal requirements.

5. What is the public purpose for this regulation (i.e., why does the Agency feel that there needs to be any regulation in this area at all)?

This regulation is being proposed to ensure that state funded home visiting services utilize best practice, evidence-based models, and are implemented and monitored to fidelity. By doing so, ODH believes these regulations will serve to improve birth and child developmental outcomes in Ohio's most at-risk communities.

6. How will the Agency measure the success of this regulation in terms of outputs and/or outcomes?

On 10/1/2016, ODH established and deployed Ohio's first ever statewide home visiting performance measurement benchmark plan. This plan contains twenty-two performance measures that all state funded home visiting programs must report on. The data is monitored and will be used by ODH to evaluate success. The data will be aggregated into quarterly scorecards for Continuous Quality Improvement at the state and local levels, as well as published in an annual report.

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Development of the Regulation

7. Please list the stakeholders included by the Agency in the development or initial review of the draft regulation.

If applicable, please include the date and medium by which the stakeholders were initially contacted.

ODH facilitated six regional stakeholder meetings that sought feedback from parents, providers, state and local government officials, advocates, community members, and other interested stakeholders. Additionally, ODH sought the feedback of the national evidence-based home visiting model developers operating in Ohio. The proposed regulations were presented as follows:

- August 29th, 2016: Presentation and open discussion with early childhood cabinet-level stakeholders only, including the Department of Medicaid.
- September 28th, 2016: Columbus – Presentation followed by open town hall style discussion.
- October 7th, 2016: Logan - Presentation followed by open town hall style discussion.
- October 14th, 2016: Akron - Presentation followed by open town hall style discussion.
- October 21st, 2016: Dayton - Presentation followed by open town hall style discussion.
- October 26th, 2016: Van Wert - Presentation followed by open town hall style discussion.

8. What input was provided by the stakeholders, and how did that input affect the draft regulation being proposed by the Agency?

Stakeholder input was largely in alignment with ODH's self-assessment of the program. Stakeholders were unanimous in voicing that current regulations are outdated and not reflective of the current target population or the requirements for evidenced-based practice. Additionally, service providers and cabinet-level partners provided input regarding the program's eligibility and how it could be improved to ensure Ohio's most at-risk families were being served. ODH documented all feedback and incorporated into this regulation where appropriate.

9. What scientific data was used to develop the rule or the measurable outcomes of the rule? How does this data support the regulation being proposed?

In collaboration with federal, state and local stakeholders, ODH developed Ohio's first ever home visiting performance measurement benchmark plan. These twenty-two performance measures served as the guidelines for developing these regulations. The measurement plan was based on the State Health Improvement Plan (SHIP), as well as data gained by Ohio's participation in a national pilot entitled, "Using Data to Measure Home Visiting Performance" facilitated by the Pew Foundation. Lastly, these regulations are informed by data published by the national office of Home Visiting Evidence of Effectiveness (HomVEE). HomVEE provides an assessment of the evidence of effectiveness for home visiting program models that target families with pregnant women and children from birth to kindergarten entry.

10. What alternative regulations (or specific provisions within the regulation) did the Agency consider, and why did it determine that these alternatives were not appropriate? If none, why didn't the Agency consider regulatory alternatives?

Home visiting is a unique service facilitated by ODH, with specific requirements mandated by ORC 3701.61. The agency conducted an exhaustive search of regulatory alternatives, to include those closely related to serving similar target populations. Having not identified current regulations that would satisfy enacted ORC, ODH proposed this revised draft. Where possible, ODH streamlined this draft regulation, removing requirements that did not impact the desired outcomes of the program. Moreover, where appropriate, ODH transferred requirements from regulation to language in provider agreements, contracts or grants.

11. Did the Agency specifically consider a performance-based regulation? Please explain. *Performance-based regulations define the required outcome, but don't dictate the process the regulated stakeholders must use to achieve compliance.*

Yes. In accordance with ORC 3701.61, this draft regulation was developed to be both performance and evidenced-based. This draft regulation strives to ensure that all state funded home visiting programs demonstrate improvement in six key areas: 1. Improved family economic self-sufficiency; 2. Improvement in maternal and newborn health; 3. Reduction in child injuries, abuse, and neglect; 4. Improved school readiness and achievement; 5. Reduction in incidents of domestic violence; and 6. Improved coordination and referral for community resources and supports.

12. What measures did the Agency take to ensure that this regulation does not duplicate an existing Ohio regulation?

The agency conducted an exhaustive review of current Administrative Code, seeking to avoid duplicating existing regulations.

13. Please describe the Agency's plan for implementation of the regulation, including any measures to ensure that the regulation is applied consistently and predictably for the regulated community.

Upon approval of regulation, ODH would collaborate with stakeholders such as members of the Home Visiting Consortium established by ORC 3701.612 to develop a transparent implementation plan. This plan will include key communication strategies such as regional presentations of the new rule, followed up by statewide webinars. Moreover, ODH will develop a crosswalk of changes to accompany the presentation, posting both to the home visiting website. To ensure that regulations are consistent and predictable, ODH would revise the statewide home visiting quality assurance plan which serves as a monitoring tool to ensure that regulations, guidelines and standards are met. Upon this revision, ODH would share with stakeholders during a statewide community of practice call, as well as provide local technical assistance as required.

Adverse Impact to Business

14. Provide a summary of the estimated cost of compliance with the rule. Specifically, please do the following:

- a. **Identify the scope of the impacted business community;** Entities qualified to contract with the state of Ohio to facilitate services as currently established by OAC 3701-8-06.1. Currently, the department has entered into agreements with 74 nonprofit or local government entities to facilitate the service in the state of Ohio.
- b. **Identify the nature of the adverse impact (e.g., license fees, fines, employer time for compliance);** The department does not anticipate any adverse fiscal impact for compliance with these draft regulations. This draft rule removes unrelated requirements, or those currenting existing that do not inform or support program outcomes.

c. Quantify the expected adverse impact from the regulation.

The adverse impact can be quantified in terms of dollars, hours to comply, or other factors; and may be estimated for the entire regulated population or for a “representative business.” Please include the source for your information/estimated impact. The department does not anticipate any adverse fiscal impact as a result of these proposed regulations.

15. Why did the Agency determine that the regulatory intent justifies the adverse impact to the regulated business community?

Not applicable.

Regulatory Flexibility

16. Does the regulation provide any exemptions or alternative means of compliance for small businesses? Please explain.

Providers of home visiting services must meet the minimum requirements under this rule to ensure service delivery to fidelity. When a contractor experiences a hardship in meeting the requirements under this rule, they may submit a variance request to the Director of Health.

17. How will the agency apply Ohio Revised Code section 119.14 (waiver of fines and penalties for paperwork violations and first-time offenders) into implementation of the regulation?

ODH has developed a comprehensive statewide home visiting quality assurance plan that guides the agency’s monitoring and compliance efforts. First-time offenders of agency policy who meet the criteria outlined in ORC 119.14 are provided technical assistance by the department, and if warranted, placed on a corrective action plan, free of any fines or penalties.

18. What resources are available to assist small businesses with compliance of the regulation?

ODH facilitates a “Community of Practice” webinar each month for every provider. These provider-peer driven webinars are designed to highlight qualitative and monitoring efforts from a strengths perspective. Additionally, the department will publish the quality assurance plan on the home visiting website, and provide individual technical assistance upon request, at no cost to the vendor.