

**MEMORANDUM**

TO: Howard Henry, Ohio Department of Mental Health and Addiction Services

FROM: Danielle Dillard, Regulatory Policy Advocate

DATE: January 30, 2018

RE: **CSI Review – Mediation Procedures (OAC 5122:2-1-06)**

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 rule submitted by the Ohio Department of Mental Health and Addiction Services (MHAS) as part of the statutorily required five-year rule review. The rule package was submitted to the CSI Office on December 29, 2017 and the public comment period was held open through January 23, 2018. No comments were received during this time.

Ohio Administrative Code 5122:2-1-06 details the dispute resolution process for contract non-renewal by either a board of alcohol, drug addiction, and mental health services or a service provider. The rule is being amended to maintain consistency with the current statutory authority, ORC 340.036(D). The amendments also reflect changes to the MHAS structure since the last update of the rule. The Department contacted the Ohio Association of County Behavioral Health Authorities and The Ohio Council of Behavioral Health & Family Services Providers for their input as part of early stakeholder outreach. Neither group requested any changes to the rule.

The rule impacts any board of alcohol, drug addiction, and mental health services, and community addiction, gambling addiction, or community mental health services providers

contracted by those boards. When a board or service provider chooses not to renew a contract it must give written notice to the other party. The party receiving notice may then make a written request for advisory mediation. The dispute resolution process is a shared expense between the parties, and mediation costs generally fall between \$100 and \$150 per hour. The BIA explains that the total cost depends on the length of mediation, and that dispute resolution is completely voluntary. Neither party is bound by the process and is free to walk away at any time. MHAS also notes that they are able to assist impacted stakeholders by connecting them with mediation resources. The Department justifies any adverse impact because the adoption of a dispute resolution process is required by state law, and voluntary mediation is the least impactful solution.

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 Mental Health and Addiction Services should proceed with the formal filing of this rule package with the Joint Committee on Agency Rule Review.