

**MEMORANDUM**

**TO:** Tom Simmons, Policy Development Manager, Ohio Department of Aging

**FROM:** Danielle Dillard, Regulatory Policy Advocate

**DATE:** October 23, 2018

**RE:** **CSI Review – Transportation (OAC 173-3-06.6, 173-39-02.13, 173-39-02.18)**

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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) 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 three amended rules submitted by the Ohio Department of Aging (Department) as part of the statutorily required five-year review. The rule package was submitted to the CSI Office on September 24, 2018, and the comment period remained open until October 7, 2018. Six comments were received during this time, and responses to those comments were received on October 17, 2018.

Ohio Administrative Code (OAC) 173-3-06.6 sets forth requirements for the content of provider agreements between an area agency on aging and a transportation provider when the trip is paid, in whole or in part, with Older Americans Act funds. OAC 173-39-02.13 and 173-39-02.18 regulate non-emergency medical transportation and non-medical transportation provided by certified providers to individuals enrolled in the Pre-Admission Screening Providing Options and Resources Today (PASSPORT) program.

The Department is making a number of amendments to the rules. With respect to OAC 173-3-06.6, the Department is exempting licensed ambulettes from preventative maintenance requirements, exempting buses from annual vehicle inspection requirements, exempting first responders and emergency medical technicians from the requirements for drivers, and exempting transit drivers from the requirements for drivers. These exemptions already exist in OAC 173-39-02.13 and 173-

The other amendments apply to all three rules. The Department is replacing the requirement to create a written plan for preventative vehicle maintenance with a requirement to adhere to the vehicle manufacturer's plan. It is also changing the pre-trip vehicle inspection requirement with a daily vehicle inspection requirement. This will result in fewer inspections for vehicles operated by more than one driver per day. Additionally, the inspections will be completed by the provider, instead of the driver, to increase flexibility for conducting inspections. Lastly, the Department is eliminating requirements for defensive driver training, deleting language implying that drivers are required to have ongoing passenger-assistance training, and requiring passenger-assistance training courses to be approved by the Board of Emergency Medical, Fire, and Transportation Services.

As part of early stakeholder outreach, the Department notified all of its certified transportation providers, and every PASSPORT administrative agency. The Department's Elder Connections Division also sent a survey to providers soliciting feedback. It received several clarification questions, but none of the feedback necessitated further amendments to the draft rules. Six comments were received during the CSI public comment period. Four of the comments either required the Department to clarify provisions in the rules, or suggested changes that could not be implemented due to statute.

Catholic Social Services suggested allowing providers to use their own pre-trip and annual inspections forms, so long as the elements required in the Department's rules are incorporated on the provider's form. It also suggested allowing the PASSPORT administrative agencies to approve inspection forms. The Department noted that it intends to keep the current requirements to ensure consistency, but that the suggestion is something it will consider in the future. The Ohio Association of Area Agencies on Aging suggested that drivers be required to maintain current passenger-assistance certification from specific training programs. The Department does not believe this is a necessary change because providers are free to require their employees to participate in passenger-assistance training courses, and maintain current certificates from any training course as long as it is approved by the Board of Emergency Medical, Fire, and Transportation Services.

The rules impact Department-certified transportation providers, and area agencies on aging with provider agreements for transportation. Providers must comply with vehicle maintenance and inspection requirements, ensure that drivers have adequate training and maintain driver requirements, and keep records on items such as trip verification and maintenance plans. The costs associated with these requirements are largely administrative, and the proposed amendments will serve to decrease existing burdens. The Department justifies any adverse impact by noting that the rules are necessary to ensure the health and safety of participants in the transportation programs it administers.

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