MEMORANDUM

TO: Tom Simmons, Ohio Department of Aging

FROM: Christopher Smyke, Regulatory Policy Advocate

DATE: January 31, 2019

RE: **CSI Review – Miscellaneous Updates (OAC 173-9-10, 173-11-03, 173-39-02.2, 173-39-02.7, 173-39-02.19, and 173-39-02.21)**

On behalf of Lt. Governor Jon Husted, 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

The Ohio Department of Aging (ODA) submitted to the CSI Office six amended[1] rules for their statutorily-required five-year review on September 11, 2018. The comment period for the rules closed on September 18, 2018 with no comments received.

This package contains select rules from ODA, which are subject to their five-year review. The rules address background checks for paid direct care positions and the Seniors Facility Program, as well as provider certification for alternative meals, home medical equipment, the kosher option for home-delivered meals, and scheduling personal care aides. The rules are being proposed with non-substantive updates to terminology. OAC 173-39-02.21 is being proposed with additional language clarification, however the requirements are unchanged.

ODA sought early stakeholder input by contacting associations that represent providers, as well as

[1] OAC 173-39-02.21 is being amended to the extent that the Legislative Service Commission requires ODA to rescind the rule and replace it with a new rule of the same rule number.

the Ohio Association of Area Agencies on Aging and Catholic Social Services of the Miami Valley (CSS). The only comment received during this period was from a representative of CSS, who proposed ten minor language changes. ODA did not make any changes as a result of the comment and the BIA includes a list of the CSS's suggestions and agency justifications for retaining the existing language. No comments were received during the CSI public comment period.

The BIA identifies the impacted business community as "responsible parties" as defined in OAC 173-9-01, local entities which apply to the Senior Facilities Program, and providers certified to provide the services that are spelled out in the rules. OAC 173-9-10 does not directly impose any adverse impacts, since it simply clarifies the requirements surrounding background checks by providing links, and OAC 173-11-03 imposes a minimal administrative cost for entities to complete and submit applications. The BIA includes a reimbursement schedule for service providers for the services addressed in OAC 173-39-02.2, 173-39-02.7, 173-39-02.19, and 173-39-02.21, which are intended to cover the daily costs incurred in service provision.

The BIA justifies the proposed rules as necessary to protect the health and safety of individuals enrolled in ODA-administered programs. The rules ensure that ODA-certified providers are properly vetted by database review and criminal records checks and establish requirements specific to each service.

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