

**MEMORANDUM**

**TO:** Tom Simmons, Ohio Department of Aging

**FROM:** Jacob Ritzenthaler, Regulatory Policy Advocate

**DATE:** November 21, 2018

**RE:** **CSI Review – Background Checks: Database Reviews (OAC 173-9-03 and 173-9-03.1)**

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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 two amended rules proposed by the Ohio Department of Aging (ODA). The rule package was submitted to the CSI Office on September 5, 2018 and the public comment period was held open through September 19, 2018.

The rules in this package set forth requirements for conducting database reviews on applicants and employees in direct-care positions. Ohio Administrative Code (OAC) 173-9-03 establishes the databases used in the review process, the times in which it is necessary to review the databases, and criteria for disqualification. OAC 173-9-03.1 sets forth similar criteria for self-employed providers. The rules are being amended to include the Ohio Department of Medicaid (ODM) Provider Exclusion and Suspension List to the list of required databases.

During early stakeholder outreach, the rules were provided to industry stakeholders for feedback, including providers and professional associations. ODA received six comments during this time. All of the comments expressed support for the changes. One stakeholder requested clarification

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regarding access to internet, the ODM database, and documentation, which ODA responded to appropriately. During the CSI public comment period, ODA received three comments. One comment requested clarification regarding the requirement to conduct background checks on each name an applicant lists on an application, to which ODA explained the requirement. One stakeholder suggested the creation of a system to check all databases at once, to which ODA clarified that the Automated Registry Check System (ARCS) already performs this function.

The business community impacted by these rules includes applicants, employees, and the organizations and agencies employing direct-care personnel. The adverse impact created by the rules includes the time necessary to perform database reviews for applicants and employees. ODA states in the BIA that the rules protect individuals receiving services from ODA-administered programs by preventing the employment of disqualified providers. After reviewing the proposed rules and the BIA, the CSI Office has determined that the rules satisfactorily meet the standards espoused by the CSI Office, and the purpose of the rule package is justified.

### **Recommendations**

For the reasons described above, the CSI Office has no recommendations on this rule package.

### **Conclusion**

Based on its review of the proposed rule package, the CSI Office recommends the Ohio Department of Aging should proceed in filing the proposed rules with the Joint Committee on Agency Rule Review.