



Common Sense Initiative

Mike DeWine, Governor
Jon Husted, Lt. Governor

Carrie Kuruc, Director

MEMORANDUM

TO: Michael Lynch, Ohio Department of Job and Family Services

FROM: Jacob Ritzenthaler, Regulatory Policy Advocate

DATE: August 11, 2020

RE: **CSI Review – Cost Report Filing Requirements for Foster Homes, Residential Treatment Facilities, and Newly Certified Qualified Residential Treatment Programs (OAC 5101:2-47-10, 5101:2-47-11, 5101:2-47-11.1, 5101:2-47-26, 5101:2-26.1, and 5101:2-47-26.2)**

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

This rule package consists of three new rules, three amended rules, and one rescinded rule proposed by the Ohio Department of Job and Family Services (ODJFS). This rule package was submitted to the CSI Office on July 21, 2020, and the public comment period was held open through July 28, 2020. Unless otherwise noted below, this recommendation reflects the version of the proposed rules filed with the CSI Office on July 21, 2020.

Ohio Administrative Code (OAC) Chapter 5101:2-47 establishes requirements for the administration of the Title IV-E Foster Care Maintenance (FCM) program. The federal Family First Prevention Services Act of 2018 requires updates to the rules regarding distribution of Title IV-E funding to facilities designated as Qualified Residential Treatment Programs (QRTP). OAC 5101:2-47-10 is a new rule that establishes reimbursement and cost report submission procedure for FCM costs incurred by foster homes. The rule incorporates the requirements previously found in OAC 5101:2-47-11. OAC 5101:2-47-11 is being rescinded and adopted as a new rule that

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establishes reimbursement and cost report submission procedures for children's residential centers, group homes, maternity homes, residential parenting facilities, private foster homes, and substance use disorder residential facilities. OAC 5101:2-47-11.1 is a new rule that establishes cost report submission requirements for QRTPs certified after October 1, 2020. OAC 5101:2-47-26 sets forth the penalties for facilities that fail to comply with fiscal accountability procedures, which can include the completion of a corrective action plan or the cancellation of Title IV-E allowability rates. The rule is amended to apply the regulations to QRTPs. OAC 5101:2-47-26.1 and 5101:2-47-26.2 concern cost report filings, record retention, and related party disclosures. The rules are amended to include QRTPs and replace the term "public child services agency" with the term "Title IV-E agency" as appropriate.

During early stakeholder outreach, ODJFS sent the rules to public child services agencies, private non-custodial agencies, the Ohio Children's Alliance, the Public Children Services Association of Ohio, and other state and local government agencies. No comments were received during this time or during the CSI public comment period.

The business community impacted by these rules includes approximately 125 agencies that have filed cost reports through the FCM program. The adverse impact created by the rules is primarily the cost of employing a certified public accountant to prepare the Agreed Upon Procedures Engagement as part of cost report filing. ODJFS estimates this cost to range from \$5,000 to \$10,000, based on feedback from agencies. ODJFS states in the BIA that the rules are necessary to ensure that facilities are reimbursed for services provided through annual cost reporting.

Recommendations

Based on the information above, the CSI Office has no recommendations on this rule package.

Conclusion

The CSI Office concludes that the Department of Job and Family Services should proceed in filing the proposed rules with the Joint Committee on Agency Rule Review.