



## Common Sense Initiative

**Mike DeWine**, Governor  
**Jon Husted**, Lt. Governor

**Joseph Baker**, Director

### Business Impact Analysis

Agency, Board, or Commission Name: Ohio Department of Job and Family Services

Rule Contact Name and Contact Information:

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Regulation/Package Title (a general description of the rules' substantive content):

Ohio Adoption Grant

Rule Number(s): 5101:2-44-06

Date of Submission for CSI Review: 5/5/23

Public Comment Period End Date: 5/12/23

Rule Type/Number of Rules:

New/\_\_\_ rules

No Change/\_\_\_ rules (FYR? \_\_\_)

Amended/ X rules (FYR? X)

Rescinded/\_\_\_ rules (FYR? \_\_\_)

The Common Sense Initiative is established in R.C. 107.61 to eliminate excessive and duplicative rules and regulations that stand in the way of job creation. Under the Common Sense Initiative, agencies must balance the critical objectives of regulations that have an adverse impact on business with the costs of compliance by the regulated parties. Agencies should promote transparency, responsiveness, predictability, and flexibility while developing regulations that are fair and easy to follow. Agencies should prioritize compliance over punishment, and to that end, should utilize plain language in the development of regulations.

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### **Reason for Submission**

1. R.C. 106.03 and 106.031 require agencies, when reviewing a rule, to determine whether the rule has an adverse impact on businesses as defined by R.C. 107.52. If the agency determines that it does, it must complete a business impact analysis and submit the rule for CSI review.

Which adverse impact(s) to businesses has the agency determined the rule(s) create?

The rule(s):

- a. ☐ Requires a license, permit, or any other prior authorization to engage in or operate a line of business.
- b. ☐ Imposes a criminal penalty, a civil penalty, or another sanction, or creates a cause of action for failure to comply with its terms.
- c. ☒ Requires specific expenditures or the report of information as a condition of compliance.
- d. ☒ Is likely to directly reduce the revenue or increase the expenses of the lines of business to which it will apply or applies.

### **Regulatory Intent**

2. Please briefly describe the draft regulation in plain language.

*Please include the key provisions of the regulation as well as any proposed amendments.*

5101:2-44-06 This rule outlines the eligibility requirements for the State Adoption Maintenance Subsidy (SAMS) payments and provides the process to apply for the program. The rule was amended to address income received from the Ohio Adoption Grant Program, effective, April 7, 2023, is not to be counted when calculating the annual gross income for applicants. The rule was also restructured for clarification, along with the removal of revision dates for forms.

3. Please list the Ohio statute(s) that authorize the agency, board or commission to adopt the rule(s) and the statute(s) that amplify that authority.

Rule Number	Statutory Authority
5101:2-44-06	5153.16, 5153.163

4. Does the regulation implement a federal requirement? Is the proposed regulation being adopted or amended to enable the state to obtain or maintain approval to administer and enforce a federal law or to participate in a federal program?  
*If yes, please briefly explain the source and substance of the federal requirement.*

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This rule does not implement any federal regulations and is not being amended to enable the state to obtain or maintain approval to administer and enforce a federal law or to participate in a federal program.

- 5. If the regulation implements a federal requirement, but includes provisions not specifically required by the federal government, please explain the rationale for exceeding the federal requirement.**

This rule is not written as a requirement of federal law, nor does it exceed any federal requirements.

- 6. What is the public purpose for this regulation (i.e., why does the Agency feel that there needs to be any regulation in this area at all)?**

The public purpose of rule 5101:2-44-06 is that for an adoptive parent to be eligible to receive state adoption maintenance subsidy for an adoptive child, the child has to have been in the permanent custody of a public children services agency or a private child placing agency and legally available for adoption. The state funded adoption subsidy program is intended to make permanent homes possible for children with special needs. It is negotiated on a case-by case basis and is frequently granted if a child with special needs is ineligible for the federal adoption assistance program.

- 7. How will the Agency measure the success of this regulation in terms of outputs and/or outcomes?**

Outcomes will be measured against the criteria specific to the rule's content and through the successful placement of special needs children that may otherwise face barriers to the adoption without financial assistance.

- 8. Are any of the proposed rules contained in this rule package being submitted pursuant to R.C. 101.352, 101.353, 106.032, 121.93, or 121.931?**

*If yes, please specify the rule number(s), the specific R.C. section requiring this submission, and a detailed explanation.*

Not applicable.

### **Development of the Regulation**

- 9. Please list the stakeholders included by the Agency in the development or initial review of the draft regulation.**

*If applicable, please include the date and medium by which the stakeholders were initially contacted.*

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The rules were initially presented to different interest groups in April 2023 prior to the rules being filed as emergency rules. The interest groups were the Ohio Adoption Planning Group (OAPG) and Ohio Child Alliance (OCA) Foster Care and Adoption Committee Meeting. The rules also went through internal and external clearance and came out on 4/27/2023 with only one comment.

**10. What input was provided by the stakeholders, and how did that input affect the draft regulation being proposed by the Agency?**

Stakeholders did not provide any feedback regarding this proposed regulation.

**11. What scientific data was used to develop the rule or the measurable outcomes of the rule? How does this data support the regulation being proposed?**

Not applicable.

**12. What alternative regulations (or specific provisions within the regulation) did the Agency consider, and why did it determine that these alternatives were not appropriate? If none, why didn't the Agency consider regulatory alternatives? *Alternative regulations may include performance-based regulations, which define the required outcome, but do not dictate the process the regulated stakeholders must use to comply.***

No alternative regulations were considered at this time of amending rules for clarifying, non-substantive changes. ODJFS did not consider a performance-based initiative, but rather followed statutory language prescribing that the Department set standards to ensure the safety and well-being of every child in care being prepared for adoption placement.

**13. What measures did the Agency take to ensure that this regulation does not duplicate an existing Ohio regulation?**

This rule was reviewed by subject matter specialists and legal staff at ODJFS prior to the clearance process to ensure they do not duplicate any existing Ohio regulations.

**14. Please describe the Agency's plan for implementation of the regulation, including any measures to ensure that the regulation is applied consistently and predictably for the regulated community.**

ODJFS licensing specialists review the agencies to ensure the regulations are applied consistently and they offer technical assistance in areas of inconsistency.

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## **Adverse Impact to Business**

**15. Provide a summary of the estimated cost of compliance with the rule(s). Specifically, please do the following:**

**a. Identify the scope of the impacted business community, and**

Rules 5101:2-44-06 contains requirements for all private child placing agencies (PCPAs), and private non-custodial agencies (PNAs).

**b. Quantify and identify the nature of all adverse impact (e.g., fees, fines, employer time for compliance, etc.).**

*The adverse impact can be quantified in terms of dollars, hours to comply, or other factors; and may be estimated for the entire regulated population or for a representative business. Please include the source for your information/estimated impact.*

The adverse impact includes specific expenditures and the report of information. Non-compliance may result in revocation or loss of certification.

For a child to be determined for eligibility for the state adoption maintenance subsidy (SAMS) program, the child should be in permanent custody of the private child placing agency, and special need's child. The adoptive parents should have completed the JFS 01613 "Application for state Adoption Subsidy; and the PCSA should have approved or denied the application.

A PCSA or PCPA should have approved the adoptive parent for adoptive placement pursuant to rule 5101:2-48-16 of the Administrative Code.

Costs to fill out the forms will vary from county to county, depending upon their business model. It is estimated these forms will take anywhere from fifteen minutes to one-half hour to complete.

**16. Are there any proposed changes to the rules that will reduce a regulatory burden imposed on the business community? Please identify. (*Reductions in regulatory burden may include streamlining reporting processes, simplifying rules to improve readability, eliminating requirements, reducing compliance time or fees, or other related factors*).**

Proposed changes provide clarity to address income received from a new program, the Ohio Adoption Grant Program, to not be counted when calculating the annual gross income for applicants. The rule was also restructured for clarification, along with the removal of revision dates for forms.

**17. Why did the Agency determine that the regulatory intent justifies the adverse impact to the regulated business community?**

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The regulatory intent justifies the fiscal impact PCPAs may incur because the forms help to ensure the safety and well-being of children in care who are being readied and prepared for adoption.

### **Regulatory Flexibility**

**18. Does the regulation provide any exemptions or alternative means of compliance for small businesses? Please explain.**

There is no alternative means of compliance with this rule.

**19. How will the agency apply Ohio Revised Code section 119.14 (waiver of fines and penalties for paperwork violations and first-time offenders) into implementation of the regulation?**

Not applicable.

**20. What resources are available to assist small businesses with compliance of the regulation?**

The county JFS enforces the rules set forth by ODJFS. ODJFS provides technical assistance through technical assistance staff, eManuals, and the Help Desk.

eManuals for children in substitute care located at: <http://emanuals.odjfs.state.oh.us/emanuals/>