MEMORANDUM

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

FROM: Sydney King, Regulatory Policy Advocate

DATE: August 30, 2013

RE: **CSI Review – No Change Packet for Substitute Care** (5101:2-42-06, 5101:2-42-07, 5101:2-42-19.1, 5101:2-42-66)

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

<u>Analysis</u>

This rule package consists of four rules and is being reviewed by the Ohio Department of Job and Family Services (ODJFS) in accordance with the five-year review requirement of ORC 119.032. All four rules are being proposed with no changes. The rules address the requirements for temporary child custody agreements, independent living arrangements, and administrative procedures for comprehensive health care. The rule package was filed with the CSI Office on August 9, 2013, and the comment period for the rules closed on August 15, 2013. No comments were received during the public comment period.

Rule 5101:2-42-06 sets forth the requirements of a temporary custody agreement and Rule 5101:2-42-07 sets forth the requirements of a thirty-day extension of the temporary custody agreement. Ohio Revised Code 5153.16 permits ODJFS to enter into temporary custody agreements and ORC 5103.15 outlines the process for these temporary custody agreements and, if needed, a thirty-day extension of the agreement.

Rule 5101:2-42-19.1 sets forth the requirements for the Public Children Services Agencies (PCSAs) and Private Child Placing Agencies (PCPAs) when placing a youth in its custody in an independent living arrangement.

Rule 5101:2-42-66 sets forth the requirements of comprehensive health care for children in placement between the County Department of Job and Family Services (CDJFS) and the PCSAs and PCPAs. This is a federally-mandated program of comprehensive preventive health services available to Medicaid-eligible individuals from birth through age twenty years. The program requires the development of written interagency procedures to implement comprehensive health care for children in placement between the CDJFS and PCSAs, PCPAs or a Private Noncustodial Agency (PNA)

According to the BIA, representatives from 88 county PCSAs, PCPAs and PNAs were invited to discuss and provide input to the rules. As a result of these conversations, it was decided the rules would move forward with no changes.

The BIA cites administrative costs as the primary adverse impact. Additionally, Rule 5101:2-42-19.1 requires PCPAs to be certified. ODJFS does not require any fee for the certification process, but in order to become incorporated, a requirement for certification, an agency must submit a fee to the Secretary of State. The fee for a non-profit agency is $25 and $125 for a for-profit agency. PCPAs must also develop procedures to implement and track comprehensive health care for children in placement. Failure to comply with the comprehensive health care requirements will result in a loss of certification for non-compliance.

ODJFS states that these regulations are necessary to ensure the safety of children in substitute care and the adverse impacts cited in the BIA are justified for this reason.

Upon review of the proposed rule and BIA, the CSI Office has determined that the rule package satisfactorily meets the standards espoused by the CSI Office, and the purpose of the rules justifies the adverse impact identified in the BIA.

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.

cc: Mark Hamlin, Lt. Governor's Office