

**MEMORANDUM**

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

FROM: Sydney King, Regulatory Policy Advocate

DATE: July 31, 2015

RE: **CSI Review – Caseworker Visitation (OAC 5101:2-42-65, 5101:2-48-17, and 5101:2-52-08)**

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) § 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 amended rules being proposed by the Ohio Department of Job and Family Services (ODJFS). The rule package was filed with the CSI Office on June 1, 2015 and the comment period closed on June 5, 2015.

ODJFS regulates Private Noncustodial Agencies (PNAs), Public Children Services Agencies (PCSAs), and Private Child Placing Agencies (PCPAs) when performing substitute care services. A child is placed in substitute care when a natural birth family has been found to no longer be an appropriate caregiver to the child. The State of Ohio facilitates placement of the child in a setting where the child's mental, physical, and emotional health is given paramount consideration. Because of the seriousness of these actions and the importance of placing a child in a healthy substitute care setting, ODFJS highly regulates the agencies to protect the child's health and well-being.

The rule package provides requirements for PCPAs, PCSAs, and PNAs for caseworker visitation

when a child is in substitute care. The rules regulate the frequency of caseworker visitations, the individual required to complete an assessor visit for children in a pre-finalized adoption placement, and placement of children that cross state lines. ODJFS states the rules are being amended to implement guidance received from the federal government. Currently, public agencies are able to contract with private agencies to conduct the required monthly visits. The draft rules are amended to comply with federal guidance and now require the agency that holds custody of the child and decision making authority over the case to complete the required monthly visits. Because most public agencies retain custody control and decision making authority for children in substitute care, they will no longer be able to contract this service to private agencies. ODJFS states that if the requirements are not implemented, the state of Ohio is at risk of losing federal funding.

According to the BIA, ODJFS provided stakeholders the opportunity to comment on the amendments. Stakeholders included public county agencies, the Ohio Association of Child Caring Agencies (OACCA), and the Institute for Human Services (HIS). ODJFS states that no private agency stakeholders commented during the early stakeholder outreach.

Four public comments were received during the CSI public comment period. The commenters were from both public and private agencies expressing concerns about the amendments requiring the agency that holds custody of the child and decision making authority over the case to complete the required monthly visits. Two public county agencies stated that it would be difficult for the county staff to perform this service due to large caseloads. The private agency stated that the amendments would result in a loss of business. OACCA also expressed concerns about the efficiency of the adoption process and described a significant adverse impact to both private and public agencies. OACCA, in its comment, noted that amendments are required in order to comply with federal guidance but suggested that ODJFS work through potential options that may minimize the impact to the public and private agencies. The CSI Office requested that ODJFS discuss OACCA's suggestions and explore the options. OACCA has communicated to the CSI Office that it is satisfied with the discussions and that ODJFS is committed to finding options to mitigate the costs.

After reviewing the proposed rules and the 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 are justified.

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