**MEMORANDUM**

**TO:** Tom Simmons, Policy Manager and Regulatory Ombudsman, Ohio Department of Aging

**FROM:** Sydney King, Regulatory Policy Advocate

**DATE:** April 19, 2016

**RE:** **CSI Review – Older Americans Act (OAC 173-3-01, 173-3-04, 173-3-05, 173-3-05.1, 173-3-06, 173-3-07, and 173-3-09)**

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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**

The Ohio Department of Aging (ODA) submitted to the CSI Office one new and six amended[1] rules being reviewed under the five-year review process required by statute. The rule package was submitted to the CSI Office on March 25, 2016, and the comment period for the rules closed on April 10, 2016. ODA submitted a revised BIA on April 14, 2016.

The rule package regulates area agencies on aging (AAAs) and provider agreements for goods and services paid with Older Americans Act funds. The regulations provide the mandatory details of the agreements, the types of services AAAs are permitted to enter into provider agreements, when the AAAs must receive permission from ODA to enter into the agreement, monitoring compliance with the agreement, and the duration of the agreement.

[1] Rules 173-3-01, 173-3-04, 173-3-05, 173-3-06, and 173-3-07 are being amended by more than 50 percent. Therefore, the Legislative Service Commission requires that the existing rule be rescinded and replaced by a new rule that has the same rule number.

The revised BIA describes a comprehensive stakeholder outreach process that included several AAAs, providers, and associations representing providers. The revised BIA details the comments received during the early stakeholder outreach. For example, the revised BIA states that providers were unaware that they were regulated by ODA through the AAA provider agreements. Because of this, ODA is now requiring every AAA provider agreement to include a statement that the provider is subject to the rules of ODA. During the CSI comment period, four stakeholders commented on the rules. ODA responded by providing clarity and justification for the amendments.

The BIA identifies providers that enter into contractual agreements with AAAs as the impacted industry. ODA provided a detailed description of the adverse impacts in the revised BIA. The adverse impacts include the costs of negotiating a provider agreement and the administrative time needed to comply with the agreements. Although the rules regulate providers, ODA states the regulations ensure an open and free bidding process by the AAAs for providing services funded through the Older Americans Act. ODA provided additional information regarding the need and importance of an open and free bidding process in Appendix B of the revised BIA.

After reviewing the proposed rules and the revised BIA, the CSI Office has determined that the rules satisfactorily meet the standards espoused by the CSI Office, and the purpose of the rules is 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