



## Common Sense Initiative

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

**Sean McCullough**, Director

### MEMORANDUM

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

**FROM:** Michael Bender, Business Advocate

**DATE:** September 20, 2022

**RE:** **CSI Review – Rule Changes for the Publicly Funded Child Care (PFCC) Ohio Benefits Statewide Implementation (OAC 5101:2-16-09)**

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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 Department as provided for in ORC 107.54.

#### Analysis

This rule package consists of one amended rule proposed by the Ohio Department of Job and Family Services (ODJFS). This rule package was submitted to the CSI Office on August 31, 2022, and the public comment period was held open through September 7, 2022. Unless otherwise noted below, this recommendation reflects the version of the proposed rule filed with the CSI Office on August 31, 2022.

Ohio Administrative Code (OAC) 5101:2-16-09 sets forth the responsibilities and requirements for providers who provide publicly funded child care (PFCC). Eligible providers of PFCC include those who operate a licensed child care center, a licensed type A or type B child care home, a licensed program approved by the Ohio Department of Education (ODE), an approved child day camp, a certified in-home aide, or a regulated border state provider. Providers licensed or certified by ODJFS who wish to receive payments must sign a provider agreement. Those not licensed by ODJFS must request approval for eligibility to do so. Providers are required to enter information into the automated child care system such as the child's current school schedule and attendance data for caretakers. The rule also provides for payments to the PFCC providers, including requesting payment enhancements when providers must make accommodations to care for children with special needs. The rule is

77 SOUTH HIGH STREET | 30TH FLOOR | COLUMBUS, OHIO 43215-6117

[CSIPublicComments@governor.ohio.gov](mailto:CSIPublicComments@governor.ohio.gov)

amended to remove the provisions on requesting payment for services provided prior to December 16, 2018, due to the implementation of an electronic process to request payment for services during that time.

During early stakeholder outreach, ODJFS made the proposed rule available for review by the Child Care Advisory Council (CCAC) in May 2022 and for public clearance in June 2022. The CCAC did not provide feedback on the rule, and no comments were made during the public clearance period. No comments were received during the CSI public comment period.

The business community impacted by the rule includes nearly 5,000 child care providers who participate in the PFCC program. The adverse impacts created by the rule include completing a provider agreement, requesting approval to be eligible to sign a provider agreement, registering in the Ohio Child Licensing and Quality System (OCLQS), requesting payment enhancement, and termination of a provider agreement due to noncompliance. While the time needed to perform these actions depends on the number of staff in the program, ODJFS estimates that it takes about thirty minutes each for a child care provider to complete a provider agreement online, for a border state provider to complete an online form and upload the required documents to register in the OCLQS, for an ODE program to complete the JFS 01140 to request approval to provide PFCC, and for a child care provider to complete and submit the JFS 01231 to request the enhanced payment rate for providing care to a child with special needs. ODJFS states that the adverse impacts are justified to meet ORC requirements to establish a process for child care providers who provide PFCC to request and receive payments for providing such care.

### **Recommendations**

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

### **Conclusion**

The CSI Office concludes that ODJFS should proceed in filing the proposed rule with the Joint Committee on Agency Rule Review.