



Common Sense Initiative

Mike DeWine, Governor
Jon Husted, Lt. Governor

Joseph Baker, Director

MEMORANDUM

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

FROM: Michael Bender, Business Advocate

DATE: July 10, 2023

RE: **CSI Review – House Bill 45 Change to Child Care Provider Qualifications (OAC 5101:2-16-09)**

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 May 17, 2023, and the public comment period was held open through May 24, 2023. Unless otherwise noted below, this recommendation reflects the version of the proposed rule filed with the CSI Office on May 17, 2023.

Ohio Administrative Code (OAC) 5101:2-16-09 sets forth the eligibility of and the process for child care providers to receive payment from ODJFS for providing publicly funded child care (PFCC) services. The rule is amended to correct a grammatical error and to add exemptions from the eligibility requirement to be rated through Step Up To Quality (SUTQ) for licensed child care centers, pre-schools licensed by the Ohio Department of Education, or school-age programs that provide PFCC to less than twenty-five percent of the program's license capacity as well as for programs that are type A family day-care homes or licensed type B family day-care homes.

During early stakeholder outreach, the Ohio Child Care Advisory Council reviewed the proposed rule and the draft manual procedure letter that went into the Child Care Manual on March 16, 2023.

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The rule also went through the ODJFS clearance process from March 28, 2023, through April 2, 2023. Comments were submitted during this period by individuals affiliated with Kendal at Oberlin Early Learning Center, My Place Child Care & School Age Center, Perrino Consulting, and Franklin County JFS. The commenters all opposed the proposed changes on the grounds that it would result in a lower quality of care for children. ODJFS replied that the proposed revisions were required by House Bill 45 of the 134th General Assembly. However, ODJFS noted that programs may still choose to be rated voluntarily. During the CSI public comment period, ODJFS received two comments from individuals affiliated with Perrino Consulting and Logan County JFS. The commenter from Perrino Consulting again expressed opposition to the additional exemptions from the requirement to be rated through SUTQ, which ODJFS pointed out was the result of HB 45. The Logan County JFS commenter asked how caretakers could be responsible for delinquent copayments up to the previous three weeks before a county agency was notified if a provider fails to inform a county agency of the delinquent copayment. ODJFS clarified that this provision was simply meant to define the maximum number of weeks for which a caretaker would be responsible for paying.

The business community impacted by the rule includes over 5,000 child care providers that participate in the PFCC program in Ohio. The adverse impacts created by the rule include completing forms, submitting data, and possible loss of an agreement to provide PFCC due to non-compliance. ODJFS notes that the proposed revisions will no longer require certain child care programs to obtain an SUTQ rating to provide PFCC. ODJFS states that the adverse impacts to business are justified to meet statutory requirements and to establish a means for eligible child care providers to receive payments for providing PFCC.

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.