



## Common Sense Initiative

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

**Joseph Baker**, Director

### MEMORANDUM

**TO:** Tom Simmons, Ohio Department of Aging

**FROM:** Jacob Ritzenthaler, Business Advocate

**DATE:** August 9, 2023

**RE:** **CSI Review – Provider Certification: Adult Day Service (OAC 173-39-02.1)**

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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 Aging (Department) as a part of the statutory five-year review process. This rule package was submitted to the CSI Office on June 30, 2023, and the public comment period was held open through July 13, 2023. Unless otherwise noted below, this recommendation reflects the version of the proposed rule filed with the CSI Office on June 30, 2023.

Ohio Administrative Code 173-39-02.1 establishes requirements for Department certification of adult day services providers. The rule sets forth requirements for certification, including necessary services, requirements for the provider's center, staffing, and provider qualifications. The rule is amended to remove the option for adult day services to be provided in-home, which was an option the Department allowed due to the COVID-19 public health emergency and is no longer being utilized by providers.

During early stakeholder outreach, the Department sent the proposed rule to industry stakeholders for feedback, including Catholic Social Services of the Miami Valley, LeadingAge Ohio, Ohio Assisted Living Association, Ohio Academy of Senior Health Sciences, Inc., Ohio Adult Day

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Healthcare Association, Ohio Association of Area Agencies on Aging, Ohio Association of Medical Equipment Suppliers, Ohio Association of Senior Centers, Ohio Council for Home Care and Hospice, Ohio Health Care Association, Ohio Jewish Communities, and the State Long-Term Care Ombudsman. No comments were received during that time. During the CSI public comment period, the Department received one comment from an area agency on aging that suggested using the term “personal care aide (PCA)” throughout the rule to maintain consistency. The Department agreed to use the term in one section but maintained that current language is appropriate in other instances.

The business community impacted by the rule includes all certified adult day service providers. The adverse impacts created by the rule include compliance with requirements to achieve and maintain certification through the Department as a provider, as well as requirements specific to adult day service provision. These require providers to provide transportation, assessments, interdisciplinary care conferences, accessibility considerations, and staff training. The Department states that the adverse impact created by the rule is necessary to ensure the health and safety of individuals enrolled in Department-administered programs.

### **Recommendations**

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

### **Conclusion**

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