



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: March 25, 2024

RE: **CSI Review – Aide Qualifications and Training (OAC 173-3-01, 173-3-06.4, 173-3-06.5, 173-39-02.8, 173-39-02.11, and 173-39-02.20)**

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 six amended rules proposed by the Ohio Department of Aging (Department) as part of the statutory five-year review requirement. This rule package was submitted to the CSI Office on February 15, 2024, and the public comment period was held open through February 29, 2024. Unless otherwise noted below, this recommendation reflects the version of the proposed rules filed with the CSI Office on February 15, 2024.

Ohio Administrative Code (OAC) Chapter 173-3 establishes requirements concerning the Older Americans Act programs. OAC 173-3-01 lists definitions used throughout the chapter and is amended to include new definitions as well as remove outdated language. OAC 173-3-06.4 sets forth requirements for Area Agency on Aging (AAA) agreements for homemaker services, including requirements for provider licensure, staff availability, aides, employee policies, service verification, participant-directed providers, and units of service. The rule is amended to allow laundry care to be performed at a laundromat if a consumer does not have a washer and dryer, allow aides to train in specific activities instead of all activities, include precautions for infection control to the list of orientation topics, reduce the training hours for homemaker aides to six hours every twelve months, remove requirements for a licensed practical nurse (LPN) to supervise an aide under the direction of

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a registered nurse (RN), and include requirements concerning visits conducted by telephone or video conference. OAC 173-3-06.5 establishes requirements for AAA agreements for personal care services. The rule is amended to reduce the training hours for personal care aides (PCAs) from sixty to thirty, reduce the number of hours of in-service training within a twelve-month period from eight hours to six, include standard precautions for infection control as an orientation topic, allow an RN to supervise a PCA without being under the direction of an LPN, and include requirements concerning visits conducted by telephone or video conference. OAC 173-39-02.8 sets forth the requirements to obtain certification as a homemaker services provider and is amended to update definitions, allow aides to train in specific homemaking activities, reduce in-service training hours, remove RN supervision requirements, and include requirements for visits conducted by telephone or video conference. OAC 173-39-02.11 establishes requirements to obtain certification as a provider of personal care services. The rule is amended to update definitions, establishing that personal care activities do not include providing respite to caregivers, reduce training hour requirements for PCAs, and include requirements for visits conducted by telephone or video conference. OAC 173-39-02.20 sets forth requirements for certification as a provider of enhanced community living (ECL) services and is amended to remove respite care as an ECL service,

During early stakeholder outreach, the Department sent the proposed rules to industry stakeholders for feedback, including Catholic Social Services of the Miami Valley, LeadingAge Ohio, Ohio Academy of Senior Health Sciences, Ohio Adult Day Healthcare Association, OhioAging, Ohio Assisted Living Association, 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 Ohio Long-Term Care Ombudsman. In response to stakeholder feedback received during that time, the Department amended the rules to align PCA training requirements with statute and remove respite care from personal care services. During the CSI public comment period, the Department received comments from several stakeholders which prompted amendments that remove requirements for personal care providers to have policies on performance appraisals and correct technical mistakes. In response to a stakeholder comment, the Department also expressed interest in using electronic visit verification (EVV) during care provision in the future but were unable due to the current limits on ODM's EVV contract.

The business community impacted by the rules includes providers of homemaker services, personal care services, and ECL services with either AAA-provider agreements or Department certification. The adverse impacts created by the rules include requirements to maintain an AAA-provider agreement or Department certification, complete background checks, maintain records, and requirements that are specific to the service provided (which include ensuring adequate staffing levels, provider training, supervision, and service verification). The Department states that the amendments made to the rules will reduce the adverse impact on businesses by reducing training hours, allowing for specialized training for homemaker service providers, and allowing additional

flexibility for supervision requirements. The Department states that the adverse impacts present in the rules are necessary to ensure the health and safety of individuals receiving services through 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 rules with the Joint Committee on Agency Rule Review.