



Common Sense Initiative

Mike DeWine, Governor
Jon Husted, Lt. Governor

Joseph Baker, Director

MEMORANDUM

TO: Tom Simmons, Ohio Department of Aging

FROM: Caleb White, Business Advocate

DATE: October 30, 2024

RE: **CSI Review – Transportation (OAC 173-3-06.6 and 173-39-02.18)**

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 two amended rules 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 September 10, 2024, and the public comment period was held open through September 23, 2024. Unless otherwise noted below, this recommendation reflects the version of the proposed rules filed with the CSI Office on September 10, 2024.

Ohio Administrative Code (OAC) 173-3-06.6 establishes the definitions, units, unit rates, and requirements for area agencies on aging (AAAs)-provider agreements for transportation when these services are paid in whole or in part with funds from the Older Americans Act (OAA). These requirements include the requirements in OAC 173-3-06, availability requirements, requirements related to assisted transportation, vehicle requirements, inspection requirements, driver requirements, hiring requirements for drivers, and reporting requirements. OAC 173-39-02.18 establishes the definitions, requirements, jobs, and rates for Department certified providers of non-medical transportation. These requirements include the requirements for availability requirements, assisted transportation, vehicles, inspections, drivers, driver hiring, reporting and those specified in OAC 173-39-02. Both of these rules are amended to no longer require vehicles that never transport

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consumers/individuals in a wheelchair to be inspected on a daily basis, eliminate the Department's daily vehicle inspection forms, require daily inspections for vehicles that transport consumers/individuals that are in a wheelchair to ensure that the permanent fasteners, safety harnesses or belts, and access ramp or hydraulic lifts are working, require annual vehicle inspections to ensure the vehicle has an isolation and biohazard kit, a 2-way communication device, a seatbelt cutter, and a first aid kit as well as to add these items to the appropriate forms.

During early stakeholder outreach, the Department was contacted by Complete Adult Day on August 5, 2024. Adult Day identified daily vehicle inspection requirements as an activity that did not have much benefit and recommended replacing the current form with a simpler form that takes less time to complete. In response to this outreach, the Department amended the rules to lessen the requirements for daily vehicle inspections. During the CSI public comment period, the Department received three comments. The first comment came from Guernsey County Senior Citizens Center, Inc. who expressed their support for the rules, asked for clarification on the classification of ambulette in the rules, and expressed concerns about a program not related to the rules and facilitated by the Ohio Department of transportation. The Department responded by clarifying the classification of ambulette and forwarding their comment to the appropriate entity. The next comment came from Council on Aging who expressed concern over the lack of a standardized form to complete daily vehicle checks. The Department did not make any changes to this rule as completing a form does not provide any more assurance that a vehicle is compliant. Additionally, AAAs may monitor vehicles as a part of a compliance review process if there are concerns over the compliance of a vehicle. The final comment came from the Van Wert County Council on Aging who asked for the requirements to have isolation and biohazard kit and a 2-way communication device to be adjusted to reflect the that the 2-way communication device may not be stored in the vehicle during the annual inspection. In response to this comment, the Department removed this requirement from a form and instead added it to both rules.

The business community impacted by the rules includes all providers with a AAA-provider agreement for transportation or for an adult day service, all Department certified providers of non-medical transportation, and all providers of non-medical transportation for a Department certified adult day service. The adverse impacts created by the rules are the costs associated with obtaining certification from the Department, availability requirements, requirements regarding the transfer of passengers, vehicle requirements, driver qualifications, training requirements, reporting requirements, inspection requirements, and the costs associated with updating policies and procedures. According to the Department the costs associated with obtaining Department certification includes background check and records retention requirements. The Department notes that many of these adverse impacts are covered by the rates providers receive from the PASSPORT program or AAA-provider agreements. The Department also highlights that several changes to the rules reduce the adverse impacts to business by eliminating the daily inspection requirements for

vehicles that never transport a consumer/individual in a wheelchair and reduce the daily inspection requirements for vehicles that transport consumers/individuals in a wheelchair. The Department states that the adverse impacts to business are justified to comply with statutory requirements and ensure the necessary safeguards are in place to protect the health and safety of consumers receiving services.

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.