

**MEMORANDUM**

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

**FROM:** Sydney King, Regulatory Policy Advocate

**DATE:** January 14, 2014

**RE:** **CSI Review – FYR of OAC Chapter 5101:2-42, Substitute Care, Part 2 (5101:2-42-05, 5101:2-42-08, 5101:2-42-09, 5101:2-42-18.1, and 5101:2-42-19)**

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On behalf of Lt. Governor Mary Taylor, 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 Agency as provided for in ORC 107.54.

**Analysis**

This rule package consists of five amended rules being proposed by the Ohio Department of Job and Family Services (ODJFS) pursuant to the five-year review requirement of ORC 119.032. The rule package was filed with the CSI Office on November 1, 2013, and the comment period for the rules closed on November 6, 2013. One comment was received during the public comment period. ODH provided a revised BIA on January 13<sup>th</sup>.

The proposed rules generally relate to the care of children when they are in substitute care. Substitute care is care provided for a child apart from a parent or guardian, while the child's custody is held by a Public Children Services Agency (PCSA) or Private Child Placing Agency (PCPA). Rule 5101:2-42-05 provides the requirements for a placement setting when a child cannot remain in his or her own home. Rule 5101:2-42-08 provides the requirements for a temporary custody agreement and the court-approved extension of the custody agreement between a parent and a PCSA or PCPA. Rule 5101:2-42-09 provides the requirements for a permanent custody agreement between a parent and a PCSA or PCPA. Rule 5101:2-42-18.1

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prohibits denying or delaying prospective foster parents or the placement of children into foster care on the basis of race, color or national origin of that person. Rule 5101:2-42-19 requires PCPAs and PCSAs to prepare youth for the transition from agency custody to self-sufficiency by offering academic support, career preparation support, vocational training, financial management training, and health education.

Stakeholder outreach included soliciting feedback from major stakeholders. The rules were presented to several stakeholder groups during the Midwest Child Welfare Implementation Center meetings. Representatives from 88 county PCSAs and private non-custodial agencies (PNA) were invited to the table for discussion, input and revisions. The one comment received during the public comment period resulted in amending Rule 5101:2-42-19.

The revised BIA identifies the adverse impact for each rule and focuses on the impact to PCPAs because the PCSAs, as public entities, are not businesses. However, the impacts to both entity types are similar. In order to obtain and maintain certification with ODJFS, the requirements set forth in the rules must be met. Therefore, noncompliance could result in revocation of certification.

Rule 5101:2-42-05 requires PCPAs to explore relatives' and suitable non-relatives' willingness and ability to assume temporary custody; assure homes are in suitable conditions and meet the standards set forth in Rule 5101:2-42-18; and confirm that substitute care settings have been licensed, certified or approved by ODJFS. Rules 5101:2-42-09 and 5101:2-42-18.1 require PCPAs to create case plans, perform assessments, and complete forms. Rule 5101:2-42-19 requires PCPAs to track Medicaid child health procedures, provide comprehensive health care for children in placement, and conduct life skills assessment. The life skills assessments include academic support, career preparation support, vocational training, financial management training, and health education. The administrative costs associated with these requirements can vary and depend on staffing levels, individual needs of the families and children, and availability of appropriate placements.

ODFS states the requirements are necessary for the safety of children in substitute care. The regulations ensure that children are placed in substitute custody arrangements that are licensed by ODJFS, in the best interest of the child, and prepare a child for independent living.

After reviewing the proposed rules and the revised BIA, the CSI Office has determined that the rules satisfactorily meet the standards espoused by the CSI Office, and the purpose of the rules is justified.

### **Recommendation**

For the reasons explained above this office does not have any recommendations regarding this

rule package.

**Conclusion**

Based on the above comments, the CSI Office concludes that the Department should proceed with the formal filing of this rule package with the Joint Committee on Agency Rule Review.

cc: Mark Hamlin, Lt. Governor's Office