



## 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:** April 14, 2023

**RE:** **CSI Review – Older Americans Act Programs: Transportation (OAC 173-3-06.6)**

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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). This rule package was submitted to the CSI Office on March 16, 2023, and the public comment period was held open through March 29, 2023. Unless otherwise noted below, this recommendation reflects the version of the proposed rule filed with the CSI Office on March 16, 2023.

Ohio Administrative Code 173-3-06.6 establishes requirements that are included in area agency on aging (AAA) provider agreements for transportation services through the Older Americans Act. The rule sets forth requirements for developing back-up plans for when a driver or vehicle is unavailable, properly maintaining and inspecting vehicles, complying with eligibility requirements when hiring drivers, verifying trips, and calculating service units and rates. The rule includes amendments that remove requirements for specific inspection forms, which the Department states will allow providers to innovate through the use of electronic forms that meet Department standards for approval. Amendments also streamline rule language.

During early stakeholder outreach, the Department sent the rules to industry stakeholders for

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feedback, including service providers and health care associations. No comments were received during that time.

During the CSI public comment period, the Department received comments that expressed concern regarding the availability of Automotive Service Excellence (ASE) certified vehicle repair shops, approved forms for vehicle inspections, and requirements for hiring drivers. In response to these comments, the Department provided clarification, stating that the rules allow an AAA to approve of a non-ASE vehicle repair shop, that allowing other signatories to conduct evaluations is dependent on Ohio's scope of practice statutes, and that the authorizing statute of the rule requires first aid and CPR training and alcohol and drug testing prior to employment.

The business community impacted by the rule includes all providers that maintain an AAA provider agreement to provide transportation services. The adverse impacts created by the rule include requirements to have a back-up plan available when a scheduled driver or vehicle is unavailable, transfer individuals into and out of service vehicles, maintain and inspect vehicles, and ensure drivers meet qualifications. Providers establish the rate of payment for services through responding to an AAA request for proposals. The Department states that the adverse impacts are necessary to ensure the health and safety of individuals enrolled in Older Americans Act programs, as well as to comply with statutory requirements.

### **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.