CSI - Ohio
The Common Sense Initiative

Business Impact Analysis

Agency Name: The Ohio Department of Job and Family Services

Regulation/Package Title: FYR of OAC 5101:2-42-66, 5101:2-42-66.1 & 5101:2-42-66.2

Rule Number(s): 5101:2-42-66, 5101:2-42-66.1 & 5101:2-42-66.2

Date: _____

Rule Type:

- ☐ New
- X Amended
- X 5-Year Review
- ☐ Rescinded

The Common Sense Initiative was established by Executive Order 2011-01K and placed within the Office of the Lieutenant Governor. Under the CSI Initiative, agencies should balance the critical objectives of all regulations with the costs of compliance by the regulated parties. Agencies should promote transparency, consistency, predictability, and flexibility in regulatory activities. Agencies should prioritize compliance over punishment, and to that end, should utilize plain language in the development of regulations.

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Regulatory Intent

1. **Please briefly describe the draft regulation in plain language.**
   Please include the key provisions of the regulation as well as any proposed amendments.

5101:2-42-66 *Administrative Procedures for Comprehensive Health Care for Children in Placement* sets forth the requirements for a comprehensive health care screening and services for Medicaid-eligible children in substitute care. This rule now includes guidance on tracking the information given to the substitute caregiver pertaining to healthchek services and transportation services.

5101:2-42-66.1 *Comprehensive Health Care for Children in Placement* sets forth the requirements to coordinate health care services for children in substitute care as a child enters into a substitute care setting or experiences a placement change. Content has been amended to implement provisions of the Family First Prevention Services Act, Public Law 115-123 to align the rule with law regarding the age of the child(ren) and the services and timeframes to conduct age appropriate medical, dental, vision, behavioral, auditory and developmental examinations.

5101:2-42-66.2 *Documentation of Comprehensive Health Care for Children in Placement* sets forth the requirements of documenting and maintaining a record of all physical, developmental and psychological assessments and treatments for each child in the care or custody of a private child placing agency or private non-custodial agency. This rule was amended to include a source of a child's health information may come from a Medicaid Managed Care Plan.

2. **Please list the Ohio statute authorizing the Agency to adopt this regulation.**

5101:2-42-66	**5103.03, 5153.16**
5101:2-42-66.1	**5103.03, 5153.166**

5101:2-42-66.2 2151.421, 5103.03, 5153.166

3. **Does the regulation implement a federal requirement? Is the proposed regulation being adopted or amended to enable the state to obtain or maintain approval to administer and enforce a federal law or to participate in a federal program?**
   If yes, please briefly explain the source and substance of the federal requirement.

   In part, these rules implement provisions of the Family First Prevention Services Act, Public Law 115-123. Specifically, the law detailed having additional visits within the first sixty to ninety days of a child entering substitute care to assess the transition of the child, monitor how the child is adjusting to the placement and identify any evolving needs.

4. **If the regulation includes provisions not specifically required by the federal government, please explain the rationale for exceeding the federal requirement.**

   This rule does not exceed federal requirements.

5. **What is the public purpose for this regulation (i.e., why does the Agency feel that there needs to be any regulation in this area at all)?**

   The Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) program is a federally mandated program of comprehensive preventive health services available to Medicaid-eligible individuals from birth through age twenty years. In Ohio, the program is called "Healthchek" and is administered by the county department of job and family services (CDJFS). A Healthchek screening examination or its equivalent constitutes comprehensive health care for all children in placement. The custodial agency is to write an interagency procedure to implement comprehensive health care for children in placement between the county DJFS and the custodial agency.

6. **How will the Agency measure the success of this regulation in terms of outputs and/or outcomes?**

   These rules are monitored through the certification process.

Development of the Regulation

7. **Please list the stakeholders included by the Agency in the development or initial review of the draft regulation.**
If applicable, please include the date and medium by which the stakeholders were initially contacted.

These rules have been reviewed by the Public Children Services Association of Ohio (PCSAO), a variety of county workers and the Department of Medicaid.

8. **What input was provided by the stakeholders, and how did that input affect the draft regulation being proposed by the Agency?**

The comment period for rule review was open from August 14, 2018 to August 28, 2018 and below is the attachment of all suggestions and responses provided.

CCN 8207 - Five Year Rule Review and Amendment to Ohio Administrative Code Rules 5101:2-42-66, 5101:2-42-66.1, and 5101:2-42-66.2

Name and email address	Comment	Response
Judi Simon: Sandusky Co.	In rule 42-66.1(C) it states the pcsa shall "arrange for" a medical screening within seventy-two hours. Can you please clarify the meaning of "arrange for". Does this mean we just have to have it scheduled or does the exam actually have to occur within those 72 hours? Thank you.	Thank you for your comment. The intent of the proposed rule change was that a health care screening be completed within 72 hours as recommended by the American Academy of Pediatrics (https://www.aap.org/en-us/advocacy-and-policy/state-advocacy/Documents/HOCPs-AAP-Resources-and-Recommendations.pdf). Based on other comments it has been decided to maintain the current timeframe of 5 working days for this requirement at this time. Our office will continue to work with the Ohio Department of Medicaid and other partners to address issues raised.

Lora Wolfe: Hamilton Co.	5101:2-42-66.1(C)- Does "shall arrange" mean the same thing as "secure" a medical screening? If it does, is there any thought to leaving the timeframe at 120 hours? Our local CHMC is very concerned about not conducting screenings for newborns at time of discharge from the hospital. Birthing staff require follow-up within a couple days from return home due to the vulnerability and critical timing for ensuring appropriate care.	Thank you for your comment. While the American Academy of Pediatrics recommends that a medical screening be completed within 72 hours of the child entering care (https://www.aap.org/en-us/advocacy-and-policy/state-advocacy/Documents/HOCPs-AAP-Resources-and-Recommendations.pdf), it has been decided to leave the timeframe for the medical screening at five working days at this time. The intent of this screening is to identify any immediate medical, urgent mental health, or developmental needs the child may have and any additional health conditions of which the foster parents and caseworker should be aware as well as to assess the child for signs of additional maltreatment. A newborn infant being discharged from a hospital and going directly into care has been assessed/monitored by the hospital prior to discharge. After the child is released from the hospital any recommendations for follow up care by the hospital and the newborn's pediatrician should be followed. Section (D)(3) of the draft rule also states that a child under the age of three should receive required pediatric care. Our office will continue to work with the Ohio Department of Medicaid and other partners to address issues raised.
	5101:2-42-66.1(D)(1) - A comprehensive physical exam is to be completed within 30 days from the sixty originally. proposed	Thank you for your comment. While the American Academy of Pediatrics recommends that a comprehensive physical

	change will require additional financial resources and possibly create delays for the comprehensive exam to be completed.	exam be completed within 30 days of the child entering care (https://www.aap.org/en-us/advocacy-and-policy/state-advocacy/Documents/HOCPs-AAP-Resources-and-Recommendations.pdf), due to concerns raised about access, the timeframe will remain at 60 days for children entering into care while our office continues to work with the Ohio Department of Medicaid and other partners to address issues raised.
	It is very concerning that a comprehensive exam is not required at a younger age (such as 6 months for exam and 1 year for dentistry, here is a link for the ADA recommendation for "get it done by one" dental.http://www.aapd.org/aapd_encourages_parents_to_%E2%80%9Cget_it_done_in_year_one%E2%80%9D_for_a_lifetime_of_healthy_smiles/ Angie Verity Athens Co.	Thank you for your comment. Section (D)(3) of the draft rule states that a child under the age of three should receive required pediatric care which includes developmental, behavioral, dental, vision and hearing. As an additional guide to agencies, we also added reference to the American Academy of Pediatrics Bright Futures guidelines that details recommendations for pediatric care for children from age birth to 21 years old.
	5101:2-42-66.1(D)5) - Our local CHMC is requesting for influenza immunizations be added to the mandatory inoculations. all appropriate routine childhood immunizations, including influenza, will be administered.	Thank you for your comment. The rule states that children in care shall receive immunizations appropriate to age and health history. Nothing in the rule would prevent your agency from ensuring children in your care receive influenza immunizations.

	5101:2-42-66.1 (D)(8) - In the past licensed clinicians have been able to complete assessments for youth under the age of 18, proposed change will require additional financial resources and possibly create delays for the assessment to be completed.	Thank you for your comment. This section of the rule was not changed. In the process of updating the rule our office learned that many misunderstood the requirements and so the rule was revised to clarify what is require for this population of youth per Ohio Revised Code 2152.72. The law has always required psychological examinations be completed on youth adjudicated delinquent on certain offenses as detailed in ORC 2152.72. It is recommended that agency staff review the specific requirements of this law with their legal staff or county prosecutor's office to better understand the requirements as well as the specific population of youth it impacts.
Angie Verity: Athens Co.	5101:2-42-66.1(C) shortens the timeframe for a medical screening from 5 (business) days to 72 hours when a child enters custody. Meeting this standard would be very challenging and nearly impossible for our agency, as we already find it difficult to locate providers for screening services in the existing (5-day) timeline. Further, the change to require an additional screening each time a child changes placement is costly (when Medicaid managed care is supposed to be helping reduce costs), redundant and not necessary. The purpose of the medical screening is "to prevent possible transmission of common child hood communicable diseases and to identify	Thank you for your comment. While the American Academy of Pediatrics recommends that a medical screening be completed within 72 hours of the child entering care (https://www.aap.org/en-us/advocacy-and-policy/state-advocacy/Documents/HOCPs-AAP-Resources-and-Recommendations.pdf), it has been decided to leave the timeframe for the medical screening at five working days at this time. The intent of this screening is to identify any immediate medical, urgent mental health, or developmental needs the child may have and any additional health conditions of which the foster parents

	symptoms of illness, injury, or maltreatment". To require this screening again when children change placements is absurd when our agency has already secured coordinated health care for the child during the time they are in the custody of the agency. The likelihood of there being a new communicable disease or symptoms of illness, injury or maltreatment just because the child changed placements seems to be far-fetched. Especially when this placement change is often in the form of moving from a foster home to a kinship placement, residential placement or even adoptive home placement. This additional screening should be at the discretion of the PCSA, not a requirement for every placement change.	and caseworker should be aware as well as to assess the child for signs of additional maltreatment. The requirement that the screening occur for each placement change is not a new requirement. With regards to your comment that the likelihood of the child having a new communicable disease or symptoms of illness, injury or maltreatment being farfetched, Ohio has not met the national standard for maltreatment of children in foster care in many years. The completion of the medical screening at each placement change ensures that maltreatment is discovered at the time of the move and offers protection for all parties (previous and new caregiver, parent, agency staff) involved with regards to abuse/neglect allegations. Our office will continue to work with the Ohio Department of Medicaid and other partners to address issues raised.
	Also, removing the exemption for the medical screening for children who have had a comprehensive medical exam within 3 months prior to placement and also for children being discharged from the hospital into the custody of the agency is unfair and again costly for agencies and Medicaid to cover another medical screen when the child is being discharged from a hospital setting or having received comprehensive medical care prior to coming into custody.	Thank you for your comment. These exemptions were not removed from the rule, but rather were incorporated into the specific sections of the rule for clarity. With regards to the comprehensive physical exam we actually increased that exemption from three months to six months so this should decrease the children that enter agency care needing an initial comprehensive physical exam.

June Cannon: Miami Co.	The rule package creates confusion and inefficiencies with overlapping requirements and responsibilities. Prior to filing, conversations need to be held with county PCSA and DJFS, ODJFS and managed care entities to clarify roles and responsibilities. In addition, the package could have an impact financially of PCSAs due to screening timeframe and additional screenings. BIA is warranted on the package.	Thank you for your comment. A BIA will be completed on this packet as required by the rule writing process. This rule's purpose is to ensure that the health care needs of children in foster care are being met while they are in care. The PCSA, as the legal custodian of the child, is ultimately responsible to ensure the children in their placement and care have the health care they need. Ohio Revised Code (2151.011) defines legal custody (which includes temporary, PPLA and permanent custody) as "a legal status that vests in the custodian the right to have physical care and control of the child and to determine where and with whom the child shall live, and the right and duty to protect, train, and discipline the child and to provide the child with food, shelter, education, and medical care, all subject to any residual parental rights, privileges, and responsibilities." The PCSA is able to utilize and partner with any entity available to them to assist in this requirement. This would include the foster caregiver, the recommending agency/placement facility as well as the managed care plan for the child. Our office will continue to work with the Ohio Department of Medicaid and other partners to address issues raised.

	5101:2-42-66.1 (C) shortens the time frame for medical screening from 5 days to 72 hours and adds additional screenings. the 72 hour time have is unrealistic. It is difficult to find a provider within 5 days, let alone 72 hours. Typically medicaid coverage is not in place within 72 hours. The additional screenings appear to serve no purpose. If additional screens are deemed necessary it should be at the discretion of the PCSA and decided on a case by case basis.	Thank you for your comment. While the American Academy of Pediatrics recommends that a medical screening be completed within 72 hours of the child entering care (https://www.aap.org/en-us/advocacy-and-policy/state-advocacy/Documents/HOCPs-AAP-Resources-and-Recommendations.pdf), it has been decided to leave the timeframe for the medical screening at five working days at this time. The intent of this screening is to identify any immediate medical, urgent mental health, or developmental needs the child may have and any additional health conditions of which the foster parents and caseworker should be aware as well as to assess the child for signs of additional maltreatment. The requirement that the screening occur for each placement change is not a new requirement. With regards to your comment that the additional screenings serve no purpose, Ohio has not met the national standard for maltreatment of children in foster care in many years. The completion of the medical screening at each placement change ensures that maltreatment is discovered at the time of the move and offers protection for all parties (previous and new caregiver, parent, agency staff) involved with regards to abuse/neglect allegations. Our office will continue to work with the Ohio Department of Medicaid and other partners to address issues raised.

	5101:2-42-66.1 (D) (3). APRNS and PAs should be added as qualified providers.	Thank you for your comment, rule has been revised and will now state for (D)(3) "A child under the age of three receives required pediatric care, which includes medical, developmental, behavioral, dental, vision and hearing."
	Currently PCSAs complete Health Checks and Pregnancy Relates Service Information. It is a task with no clear purpose. Conversations need to occur with involved parties to decide purpose.	Thank you for your comment. The Office of Families and Children did meet with and provided the draft rules to the Department of Medicaid including the Healthchek policy developer for comments. The changes in the rules with regards to Healthchek are due to those conversations. Our office will continue to work with the Ohio Department of Medicaid and other partners to address issues raised
Barbara Cline: Athens Co.	5101:2-42-66.1(C) change is requesting to shorten the timeframe for medical screening from 5 working days to 72 hours when a child enters care. This shortened timeframe will be very difficult for agency's as the 5 working days can already be very challenging to meet with locating providers willing to do the medical screening. Also, requiring this screening each time a child moves placements seems to be an unnecessary requirement that is costly and difficult to accommodate.	Thank you for your comment. While the American Academy of Pediatrics recommends that a medical screening be completed within 72 hours of the child entering care (https://www.aap.org/en-us/advocacy-and-policy/state-advocacy/Documents/HOCPs-AAP-Resources-and-Recommendations.pdf), it has been decided to leave the timeframe for the medical screening at five working days at this time. The intent of this screening is to identify any immediate medical, urgent mental health, or developmental needs the child may have and any additional health conditions of which the foster parents

		and caseworker should be aware as well as to assess the child for signs of additional maltreatment. The requirement that the screening occur for each placement change is not a new requirement. With regards to your comment that the additional screenings are an unnecessary requirement, Ohio has not met the national standard for maltreatment of children in foster care in many years. The completion of the medical screening at each placement change ensures that maltreatment is discovered at the time of the move and offers protection for all parties (previous and new caregiver, parent, agency staff) involved with regards to abuse/neglect allegations. Our office will continue to work with the Ohio Department of Medicaid and other partners to address issues raised.
	(D) change of timeframe that the comprehensive Physical examination is due from 60 days to 30 days is again going to be challenging for agency's do meet. This seems as an unnecessary change.	Thank you for your comment. While the American Academy of Pediatrics recommends that a comprehensive physical exam be completed within 30 days of the child entering care (https://www.aap.org/en-us/advocacy-and-policy/state-advocacy/Documents/HOCPs-AAP-Resources-and-Recommendations.pdf), due to concerns raised about access, the timeframe will remain at 60 days for children entering into care while our office continues to work with the Ohio Department of Medicaid and other partners to address issues raised.

	(8) For adjudicated delinquent youth to request that a new psychological be completed at subsequent placement changes seems to be a very costly request for agency's.	Thank you for your comment. This section of the rule was not changed. In the process of updating the rule our office learned that many misunderstood the requirements and so the rule was revised to clarify what is require for this population of youth per Ohio Revised Code 2152.72. The law has always required psychological examinations be completed on youth adjudicated delinquent on certain offenses as detailed in ORC 2152.72. It is recommended that agency staff review the specific requirements of this law with their legal staff or county prosecutor's office to better understand the requirements as well as the specific population of youth it impacts.
Marisa Weisel obo Angela Stausser (PCSAO)	PCSAs have legal responsibility, financial interest, and a strong sense of duty to assure access to health care services for children in their custody. In practice, they collaborate closely with Medicaid and the MCPs, providers in their community, and other parties to assure access to necessary care on an ongoing basis. Generally, this rule package does not account for the shift from fee-for-service to Managed Care Medicaid that took place in 2017 for children in custody. Now, nearly all children have a	Thank you for your comment. This rule's purpose is to ensure that the health care needs of children in foster care are being met while they are in care. The PCSA, as the legal custodian of the child, is ultimately responsible to ensure the children in their placement and care have the health care they need. Ohio Revised Code (2151.011) defines legal custody (which includes temporary, PPLA and permanent custody) as "a legal status that vests in the custodian the right to have physical care and control of the child and to determine where and with whom the child shall live, and the right and duty to protect, train, and discipline the child

	managed care plan, and many of the children entering custody keep the same Medicaid managed care plan they had before they were in custody. Many of the requirements for PCSCAs listed in the rule package overlap with requirements for other entities, including the managed care plans. For example, 5160-1-14 states that Medicaid will pay for EPSDT services consistent with Bright Futures guidelines, and MCPs are contractually required to provide care coordination and assure access to these same services. As written, this rule package creates confusion and inefficiencies. Prior to filing the rule package, the Ohio Department of Medicaid, the managed care plans, Ohio JFS, county JFSs, and PCSAs should meet to discuss and outline their roles and responsibilities and ways to (1) improve access to care for children in custody and (2) create synergy and efficiencies within the systems. This conversation should be used to inform drafting changes to the rules before they are filed.	and to provide the child with food, shelter, education, and medical care, all subject to any residual parental rights, privileges, and responsibilities." The PCSA is able to utilize and partner with any entity available to them to assist in this requirement. This would include the foster caregiver, the recommending agency/placement facility as well as the managed care plan for the child. Thank you for your comment. The Office of Families and Children did meet with and provided the draft rules to the Department of Medicaid including the Healthchek policy developer for comments. The changes in the draft rule with regards to Healthchek was as a result those conversations. Our office will continue to work with the Ohio Department of Medicaid and other partners to address issues raised.
	This rule package warrants a financial impact assessment - something similar to the BIA conducted for private entities - because compliance with the rules as written would increase costs for PCSAs, and no additional funding is being made available to PCSAs to meet the requirements of the rules. For	Thank you for your comment. A BIA will be completed on this packet as required by the rule writing process. While the American Academy of Pediatrics recommends that a medical screening be completed within 72 hours of the child entering care (https://www.aap.org/en-us/advocacy-

	example, many PCSAs already pay for some medical screenings when a child enters custody because they cannot arrange for such screenings to take place with Medicaid-contracted providers within the timeframe (5 days) required in current rule. Shortening this timeframe to 72 hours and adding the requirements that additional screenings must occur each time a child's placement changes will increase the frequency with which PCSAs are incurring these costs. It's noteworthy that some PCSAs directly contract with private entities / foster care networks who could also be impacted by these additional costs for screenings.	and-policy/state-advocacy/Documents/HOCPs-AAP-Resources-and-Recommendations.pdf), it has been decided to leave the timeframe for the medical screening at five working days at this time. The intent of this screening is to identify any immediate medical, urgent mental health, or developmental needs the child may have and any additional health conditions of which the foster parents and caseworker should be aware as well as to assess the child for signs of additional maltreatment. The requirement that the screening occur for each placement change is not a new requirement. The completion of the medical screening at each placement change ensures that maltreatment is discovered at the time of the move and offers protection for all parties (previous and new caregiver, parent, agency staff) involved with regards to abuse/neglect allegations. Our office will continue to work with the Ohio Department of Medicaid and other partners to address issues raised.
	5101:2-42-66.1(C) shortens the timeframe for a medical screening from 5 days to 72 hours when a child enters custody. Meeting this standard would be very challenging and costly for PCSAs, as many already find it difficult to locate providers for screening services in the existing (5-day) timeline, and many pay for these screening services today. This change warrants further discussion with PCSAs and managed care plans before it is made in rule. Further, the change to require an additional	Thank you for your comment. While the American Academy of Pediatrics recommends that a medical screening be completed within 72 hours of the child entering care (https://www.aap.org/en-us/advocacy-and-policy/state-advocacy/Documents/HOCPs-AAP-Resources-and-Recommendations.pdf), it has been decided to leave the timeframe for the medical screening at five working days at this time. The intent of this screening is to identify any

	screening each time a child changes placement is not necessary. This additional screening should be at the discretion of the PCSA, not a requirement for every placement change.	immediate medical, urgent mental health, or developmental needs the child may have and any additional health conditions of which the foster parents and caseworker should be aware as well as to assess the child for signs of additional maltreatment. The requirement that the screening occur for each placement change is not a new requirement. The completion of the medical screening at each placement change ensures that maltreatment is discovered at the time of the move and offers protection for all parties (previous and new caregiver, parent, agency staff) involved with regards to abuse/neglect allegations. Our office will continue to work with the Ohio Department of Medicaid and other partners to address issues raised.
	5101:2-42-66.1(D)(3) requires pediatric care prescribed by a "licensed physician." This should be changed to incorporate care prescribed by advance practice registered nurses (APRNS) and physician assistants (PAs).	Thank you for your comment. The rule has been revised and will now state for (D)(3) "A child under the age of three receives required pediatric care, which includes medical, developmental, behavioral, dental, vision and hearing."
	Current agency activity involving Healthcheck and Pregnancy Related Services Information Sheet amount to paperwork with no real purpose. This subject be addressed in the meeting suggested above (among ODM, MCPs, Ohio JFS, county JFS, and PCSAs) to discuss the purposes, processes, and outcomes of	Thank you for your comment. The Office of Families and Children did meet with and provided the draft rules to the Ohio Department of Medicaid including the Healthchek policy developer for comments. The changes in the rules with regards to Healthchek are due to those conversations.

	these activities as they translate into rule.	Our office will continue to work with the Ohio Department of Medicaid and other partners to address issues raised.
Anne O'Leary Franklin Co.	5101:2-42-66 FCCS would submit that the rule should clarify that EPSDT is a requirement of the Medicaid program and this responsibility would be better served by contracted managed care plans (MCPs). The terminology "administered by the county department of job and family services is misleading as the responsibility is more appropriately borne by the Medicaid program and MCPs.	Thank you for your comment. The Office of Families and Children did meet with and provided the draft rules to the Department of Medicaid including the Healthchek policy developer for comments. The changes in the rules with regards to Healthchek are due to those conversations. Our office will continue to work with the Ohio Department of Medicaid and other partners to address issues raised.
	FCCS would submit that CDJFS does not have the direct responsibility for assuring comprehensive health care. The Medicaid program and its MCPs have the statutory responsibility to assure access to health care services for all children, including those in the custody of PCSAs. Rather than focusing on interagency policies, this section and the children we serve would better served by clear direction regarding the shared and overlapping responsibilities and duties for all involved to assure comprehensive health care needs are met	Thank you for your comment. The Office of Families and Children did meet with and provided the draft rules to the Department of Medicaid including the Healthchek policy developer for comments. The changes in the rules with regards to Healthchek are due to those conversations. Our office will continue to work with the Ohio Department of Medicaid and other partners to address issues raised.

	for children in placement.	
	5101:2-42-66.1 FCCS would submit under subsection (A) that the act of coordinating comprehensive health care for each child now should be done in partnership with the MCP and with paid placement providers. MCPs have the lead role in assuring access to care and the coordination of such should be assumed by those entities.	Thank you for your comment. This rule's purpose is to ensure that the health care needs of children in foster care are being met while they are in care. The PCSA, as the legal custodian of the child, is ultimately responsible to ensure the children in their placement and care have the health care they need. Ohio Revised Code (2151.011) defines legal custody (which includes temporary, PPLA and permanent custody) as "a legal status that vests in the custodian the right to have physical care and control of the child and to determine where and with whom the child shall live, and the right and duty to protect, train, and discipline the child and to provide the child with food, shelter, education, and medical care, all subject to any residual parental rights, privileges, and responsibilities." The PCSA is able to utilize and partner with any entity available to them to assist in this requirement. This would include the foster caregiver, the recommending agency/placement facility as well as the managed care plan for the child.
	FCCS would submit under subsections (C) and (D) that these types of medical screen are a Medicaid billable service. The managed care entities should be providing PCSAs with	Thank you for your comment. While the American Academy of Pediatrics recommends that a medical screening be completed within 72 hours of the child

	providers to complete these services and for them to bill Medicaid, regardless of time frames. The current timeframes do not allow for this to occur and the cost in many instances has been assumed by the PCSA. Reducing the time frames even further does not alleviate this cost shift, but further handicaps PCSA's in obtaining screenings in the time frames proposed. Any time requirement for obtaining either medical screen should be done in conjunction with the timeframes that MCP's must provide information to PCSA. This will allow all involved to verify what health care a child has already received in the months preceding their entry in to the custody of a PCSA. The requirement that a child undergo a medical screen for each placement change is unreasonable and will result in over extending an already limited pool of medical providers that can meet this expectation. Further, it squanders financial resources in pursuit of compliance to a rule as opposed to a thoughtful and practical approach to ensuring health care for children in care.	entering care (https://www.aap.org/en-us/advocacy-and-policy/state-advocacy/Documents/HOCPs-AAP-Resources-and-Recommendations.pdf), it has been decided to leave the timeframe for the medical screening at five working days at this time. The intent of this screening is to identify any immediate medical, urgent mental health, or developmental needs the child may have and any additional health conditions of which the foster parents and caseworker should be aware as well as to assess the child for signs of additional maltreatment. The requirement that the screening occur for each placement change is not a new requirement. The completion of the medical screening at each placement change ensures that maltreatment is discovered at the time of the move and offers protection for all parties (previous and new caregiver, parent, agency staff) involved with regards to abuse/neglect allegations. Our office will continue to work with the Ohio Department of Medicaid and other partners to address issues raised.
	Finally, when youth are in a paid placement, this information is usually in the youth's file. But, when a youth moves placements, services many times are duplicated. The managed care entities coordinate care, and this could be an area where they can assist PCSA's because often when provider youth files are audited, this annual physical exam many times has 'slid' due	Thank you for your comment. This rule's purpose is to ensure that the health care needs of children in foster care are being met while they are in care. The PCSA, as the legal custodian of the child, is ultimately responsible to ensure the children in their placement and care have the health care they need. Ohio Revised Code (2151.011) defines legal

	to duplicative exams.	custody (which includes temporary, PPLA and permanent custody) as "a legal status that vests in the custodian the right to have physical care and control of the child and to determine where and with whom the child shall live, and the right and duty to protect, train, and discipline the child and to provide the child with food, shelter, education, and medical care, all subject to any residual parental rights, privileges, and responsibilities." The PCSA is able to utilize and partner with any entity available to them to assist in this requirement. This would include the foster caregiver, the recommending agency/placement facility as well as the managed care plan for the child.
	Specifically, as to (D)(5), FCCS contends the requirement for immunizations should include language that MCP's should assist in the identification of past immunizations.	Thank you for your comment. This rule's purpose is to ensure that the health care needs of children in foster care are being met while they are in care. The PCSA, as the legal custodian of the child, is ultimately responsible to ensure the children in their placement and care have the health care they need. Ohio Revised Code (2151.011) defines legal custody (which includes temporary, PPLA and permanent custody) as "a legal status that vests in the custodian the right to have physical care and control of the child and to determine where and with whom the child shall live, and the right and duty to protect, train, and discipline the child and to provide the child with food, shelter, education, and medical care, all subject to any residual parental rights,

		privileges, and responsibilities." The PCSA is able to utilize and partner with any entity available to them to assist in this requirement. This would include the foster caregiver, the recommending agency/placement facility as well as the managed care plan for the child. The Ohio Department of Job and Family Services is not authorized to write Ohio Administrative Code rules for Managed Care Plans (MCP). Our office will forward your comment on to the Department of Medicaid for their consideration.
	Specifically, as to (D)(8), FCCS contends the requirement that an adjudicated delinquent youth undergo a psychological assessment is contrary to R.C. 2152.72—which states: (1) Except as provided in division (E) of this section, a public children services agency, private child placing agency, private noncustodial agency, or court, the department of youth services, or another private or government entity shall not place a child in a certified foster home or for adoption until it provides the foster caregivers or prospective adoptive parents with all of the following: (d) The substantial and material conclusions and recommendations of any psychiatric or psychological examination conducted on the child OR, if no psychological or psychiatric examination of the child is available, the substantial	Thank you for your comment. Ohio Revised Code 2152.72 must be read in its entirety to understand the requirements of the law. You are correct that section (B) of the law initially allows the placing agency to provide the caregiver with information from another type of evaluation if a psychological or psychiatric examination has not already been completed for the youth. The law goes on to require per section (C) that the entity that placed the child conduct a psychological examination unless one of the timeframe exceptions in section (C) are met.

	and material conclusions and recommendations of an examination to detect mental and emotional disorders conducted in compliance with the requirements of Chapter 4757. of the Revised Code by an independent social worker, social worker, licensed professional clinical counselor, licensed professional counselor, independent marriage and family therapist, or marriage and family therapist licensed under that chapter…. (Emphasis added) The statute only requires that foster caregivers receive a psychological or psychiatric examination that was already conducted on a child at the time of placement. By requiring an examination beyond the intent of the statute places a significant burden on the PCSA, especially with limited access to psychological evaluation services, wait lists and the costs associated with psychological assessments. A behavioral health assessment by those listed in the statute would and should suffice to meet the statutory intent. It would also allow for foster parents to receive more timely information about the youth in their care as those assessments would be far easier and timelier to obtain. Finally, access to a behavioral health screening is achieved for all children through EPSDT requirements/ Bright futures screenings.	
	Specifically, as to (E): the coordination and responsibility for completion of Healthchek activities rests with the CDJFS and MCP's. To place this burden on the PCSA with no requirements on either CDJFS or an MCP is misplaced. By requiring a PCSA to	Thank you for your comment. The Office of Families and Children did meet with and provided the draft rules to the Department of Medicaid including the Healthchek policy developer for comments. The changes in the rules with

	coordinate the activities of another agency's legal responsibilities places an undue burden on a system that is already heavily regulated on the activities it is required to deliver.	regards to Healthchek are due to those conversations. Our office will continue to work with the Ohio Department of Medicaid and other partners to address issues raised.
	5101:2-42-66.2 FCCS would submit that under subsection (C) consideration should be given to include a provision that MCP's provide a semi-annual report regarding activities required for a PCSA to maintain in their case record as they would be the most likely accurate source of medical documentation. This would ensure that each child receives all necessary health care services, thereby eliminating duplicative services.	Thank you for your comment. The Ohio Department of Job and Family Services is not authorized to write Ohio Administrative Code rules for Managed Care Plans (MCP). Our office will forward your comment on to the Department of Medicaid for their consideration.
Sara Wright Champaign Co.	With the proposed change of a 72 hour screening versus a five (5) day screening, there may be times when to meet this requirement, it would result in youth being subject to waiting in Urgent Care or ER settings for extended periods of time. With the current requirement of 5 days, for non-immediate/non-emergency needs, it lends more ability to arrange for services with their typical routine health care provider, especially when the timing is around weekends or holidays. There would be concern that this shorter window of time may subject youth who are experiencing trauma of removal or a placement move with the compounded atypical experience of accessing emergency health care services for a non-immediate/non-	Thank you for your comment. While the American Academy of Pediatrics recommends that a medical screening be completed within 72 hours of the child entering care (https://www.aap.org/en-us/advocacy-and-policy/state-advocacy/Documents/HOCPs-AAP-Resources-and-Recommendations.pdf) , it has been decided to leave the timeframe for the medical screening at five working days at this time. The intent of this screening is to identify any immediate medical, urgent mental health, or developmental needs the child may have and any additional health conditions of which the foster parents and caseworker should be aware as well as to assess the

	emergency need. Additionally, the change would require the Healthchek form and 72 hour medical screening to be completed with each subsequent placement move, which seems unnecessary; if the PCSA is completing the other outlined rule items, there should be no reason that this needs to be subsequently completed because the youth's healthcare needs are being met on an ongoing and routine basis.	child for signs of additional maltreatment. The requirement that the screening occur for each placement change is not a new requirement. The completion of the medical screening at each placement change ensures that maltreatment is discovered at the time of the move and offers protection for all parties (previous and new caregiver, parent, agency staff) involved with regards to abuse/neglect allegations. The Office of Families and Children did meet with and provided the draft rules to the Department of Medicaid including the Healthchek policy developer for comments. The changes in the rules with regards to Healthchek are due to those conversations. Our office will continue to work with the Ohio Department of Medicaid and other partners to address issues raised.
	There seems to be a lot of current confusion about the completion of the Healthchek form and what purpose it serves. With youth in the custody of the PCSA, their assigned caseworker for the PCSA is already securing services for the youth and eliminating barriers to services, so it appears duplicative.	Thank you for your comment. The Office of Families and Children did meet with and provided the draft rules to the Ohio Department of Medicaid including the Healthchek policy developer for comments. The changes in the rules with regards to Healthchek are due to those conversations. Our office will continue to work with the Ohio Department of Medicaid and other partners to address issues raised.
	The inclusion of the Bright Futures Guidelines in the rule seems	Thank you for your comment. The intent of adding the

	out of place. It appears unclear if the expectation is for the assigned PCSA caseworker to make sure all screenings are completed or if this is a tool and resource for education. If the intent is for the caseworker to make sure screenings are completed, it seems that it will add considerable time for caseworkers to itemize each recommended screening to make sure there is compliance. If the intent is that the guidelines are for education and a resource, it may be better severed being listed as a resource on the Knowledgebase instead of in a rule.	links to the Medicaid rule and the Bright Future's Guidelines was to assist agencies in understanding the recommendations of the American Academy of Pediatricians. The rule itself details the requirements of the custodial agency.
	Section (D)(2) appears unclear as to whether these additional visits referenced are additional visits by the youth to the medical provider or additional visits to the youth by the PCSA caseworker. Caseworker visits with children in substitute care is covered in 5101:2-42-65, and inclusion here may be confusing and duplicative. If it is intended to reference additional visits to the medical provider, there would be concern that if the medical professional does not feel it is medically necessary for additional visits with the child, how this will be coded and funded for payment of services and whether we are subjecting youth to additional non-necessary care.	Thank you for your comment. The American Academy of Pediatrics (AAP) recommends that children entering care should continue to be monitored during the first 60 to 90 days to determine if additional health care visits are needed. (https://www.aap.org/en-us/advocacy-and-policy/state-advocacy/Documents/HOCPs-AAP-Resources-and-Recommendations.pdf) . These additional visits are health related visits, not caseworker visits as required per rule 5101:2-42-65. As indicated in the rule, these additional visits are "as appropriate" and not required.
	For the immunization section, there are concerns about how this would work in practice, for example, times when youth may be in the temporary custody of PCSA and parents are opposed to vaccination of their children, or who request a	Thank you for your comment. This part of the rule was not changed. The PCSA, as the legal custodian of the child, is ultimately responsible to ensure the children in their placement and care have the health care they need. Ohio

	modified vaccination schedule. Opposition to vaccination may be for several reasons, which can include individuals who voice opposition based on their religious beliefs. There also may be times when specific vaccines are not recommended by the medical provide due to history of allergies or reactions to similar/previous vaccines. There is no current language within this rule to address these concerns.	Revised Code (2151.011) defines legal custody (which includes temporary, PPLA and permanent custody) as "a legal status that vests in the custodian the right to have physical care and control of the child and to determine where and with whom the child shall live, and the right and duty to protect, train, and discipline the child and to provide the child with food, shelter, education, and medical care, all subject to any residual parental rights, privileges, and responsibilities." It is suggested that concerns regarding a parent's residual rights be discussed with your legal department or county prosecutor

9. **What scientific data was used to develop the rule or the measurable outcomes of the rule? How does this data support the regulation being proposed?**

   Not applicable.

10. **What alternative regulations (or specific provisions within the regulation) did the Agency consider, and why did it determine that these alternatives were not appropriate? If none, why didn't the Agency consider regulatory alternatives?**

    There were no alternatives considered for these rules as all parties involved were satisfied with the rules and because the rules are driven by statute.

11. **Did the Agency specifically consider a performance-based regulation? Please explain.**
    Performance-based regulations define the required outcome, but don't dictate the process the regulated stakeholders must use to achieve compliance.

ODJFS did not consider a performance-based initiative, but rather followed statutory language prescribing that the department set standards to ensure the well-being of every child in temporary custody.

12. **What measures did the Agency take to ensure that this regulation does not duplicate an existing Ohio regulation?**

    The JCARR prong for invalidation: "Rules do not conflict with a rule of its own or another rule-making agency" has been an ongoing deterrent to duplication. JFS Legal staff and rule developers diligently review rules to assure there is no duplication of an existing Ohio regulation.

13. **Please describe the Agency's plan for implementation of the regulation, including any measures to ensure that the regulation is applied consistently and predictably for the regulated community.**

    Once the rules are final filed, a transmittal letter will be generated explaining the changes to the rules and the rationale for the changes. The transmittal letters can be viewed at http://emanuals.jfs.ohio.gov/FamChild/FCASM/FCASMTL/**. The rules do not prescribe anything that would not be applied consistently. ODJFS licensing specialists review the agencies to ensure the regulations are applied consistently and they offer technical assistance in areas of inconsistency.**

Adverse Impact to Business

14. **Provide a summary of the estimated cost of compliance with the rule. Specifically, please do the following:**
    a. **Identify the scope of the impacted business community;**
       The rules of the Administrative Code in Chapter 5101:2-42 contain requirements for children in temporary custody and placed into substitute care by public and private agencies. Requirements must be met to obtain and/or maintain certification for PCPAs and PNAs. There are currently 26 certified PCPAs and 141 PNAs in Ohio.

b. **Identify the nature of the adverse impact (e.g., license fees, fines, employer time for compliance); and**
5101:2-42-66 The PCPA must develop procedures to implement and track healthchek procedures and comprehensive health care for children in placement. Failure to do so will result in a loss of certification for non-compliance.

5101:2-42-66.1 The requirements for comprehensive health care must be met for PCPAs to obtain and/or maintain certification by the state. There may be a cost to coordinate comprehensive health care, secure medical screenings and documentation of services in the case record. Identifying costs as they relate to time spent coordinating medical services with providers in the community depends on so many different variables, that it is nearly impossible to approximate. These variable include agency composition and staffing and availability of services and resources.

5101:2-42-66.2 The requirements must be met in order for PCPAs to obtain and/or maintain certification by the state. There may be a cost to document, maintain case records and provide copies of all exams, assessments and treatments. Identifying costs as they relate to time spent completing forms depends on so many different variables, that it is nearly impossible to approximate. These variable include agency composition and staffing and the number of children in the agency's care.

c. **Quantify the expected adverse impact from the regulation.**
The adverse impact can be quantified in terms of dollars, hours to comply, or other factors; and may be estimated for the entire regulated population or for a "representative business." Please include the source for your information/estimated impact.

The adverse impact would only be regulated to time spent adhering to rule regulations and reporting the information necessary for rule compliance.

15. **Why did the Agency determine that the regulatory intent justifies the adverse impact to the regulated business community?**

To ensure the safety of children in substitute care, the adverse impact of these rules is necessary.

Regulatory Flexibility

16. Does the regulation provide any exemptions or alternative means of compliance for small businesses? Please explain.

For rules 5101:2-42-66, 5101:2-42-66.1 and 5101:2-42-66.2, there are no alternative means of compliance.

17. How will the agency apply Ohio Revised Code section 119.14 (waiver of fines and penalties for paperwork violations and first-time offenders) into implementation of the regulation?

If an agency does not comply, the result will be a forfeiture of certification through denial or revocation.

18. What resources are available to assist small business with compliance of the regulation?

ODJFS has a regional office with a licensing specialist that will be assigned to assist the agency in the entire application process including assistance with the proper information required by this rule if the agency chooses to use a certification to meet Ohio requirements.