



Common Sense Initiative

Mike DeWine, *Governor*
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Business Impact Analysis

Agency, Board, or Commission Name: The Ohio Department of Job and Family Services

Rule Contact Name and Contact Information: Michael Lynch

Regulation/Package Title (a general description of the rules' substantive content):

Comprehensive Health Care

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

Date of Submission for CSI Review: 2/5/2024

Public Comment Period End Date: 2/12/2024

Rule Type/Number of Rules:

New/___ rules

No Change/___ rules (FYR? ___)

Amended/ 2 rules (FYR? Y)

Rescinded/___ rules (FYR? ___)

The Common Sense Initiative is established in R.C. 107.61 to eliminate excessive and duplicative rules and regulations that stand in the way of job creation. Under the Common Sense Initiative, agencies must balance the critical objectives of regulations that have an adverse impact on business with the costs of compliance by the regulated parties. Agencies should promote transparency, responsiveness, predictability, and flexibility while developing regulations that are fair and easy to follow. Agencies should prioritize compliance over punishment, and to that end, should utilize plain language in the development of regulations.

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Reason for Submission

- 1. R.C. 106.03 and 106.031 require agencies, when reviewing a rule, to determine whether the rule has an adverse impact on businesses as defined by R.C. 107.52. If the agency determines that it does, it must complete a business impact analysis and submit the rule for CSI review.**

Which adverse impact(s) to businesses has the agency determined the rule(s) create?

The rule(s):

- Requires a license, permit, or any other prior authorization to engage in or operate a line of business.**
- Imposes a criminal penalty, a civil penalty, or another sanction, or creates a cause of action for failure to comply with its terms.**
- Requires specific expenditures or the report of information as a condition of compliance.**
- Is likely to directly reduce the revenue or increase the expenses of the lines of business to which it will apply or applies.**

Regulatory Intent

- 2. Please briefly describe the draft regulation in plain language.**

Please include the key provisions of the regulation as well as any proposed amendments.

OAC 5101:2-42-66 entitled "Administrative procedures for comprehensive health care for children in placement" provides the requirements to agencies for the Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) program. EPSDT is a federally mandated program of comprehensive preventive services available to Medicaid-eligible individuals from birth through age twenty. The rule has been amended to remove the revision date from the form referenced in rule.

OAC 5101:2-42-07 entitled "Documentation of comprehensive health care for children in placement " provides guidance to agencies on the requirements to document and maintain a record of physical health examinations, developmental and psychological assessments, and treatment for each child in the care or custody of an agency. The rule has been amended to include providing the child's health record to a child emancipating from custody. In addition, the rule is being amended to remove the revision date from the form referenced in the rule.

- 3. Please list the Ohio statute(s) that authorize the agency, board or commission to adopt the rule(s) and the statute(s) that amplify that authority.**

OAC 5101:2-42-66

Statute: 5153.166, 5153.16, 5103.03 Rule Amplification: 5103.03, 5153.16

OAC 5101:2-42-66.2

Statute: 5153.166, 5103.03 Rule Amplification: 5103.03, 5153.166

- 4. 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.

Yes, the Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) program. EPSDT is a federally mandated program of comprehensive preventive services available to Medicaid-eligible individuals from birth through age twenty. In addition, these rules also implement provisions of the Family First Prevention Services Act, Public Law 115-123.

- 5. If the regulation implements a federal requirement, but includes provisions not specifically required by the federal government, please explain the rationale for exceeding the federal requirement.**

These rules do not exceed any federal requirements.

- 6. 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.

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

The implementation of the rules and subsequent outcomes are monitored through the certification process for PCPAs.

- 8. Are any of the proposed rules contained in this rule package being submitted pursuant to R.C. 101.352, 101.353, 106.032, 121.93, or 121.931?**

If yes, please specify the rule number(s), the specific R.C. section requiring this submission, and a detailed explanation.

No.

Development of the Regulation

- 9. 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.

The rules went through the public clearance on January 18, 2024 to February 1, 2024. There were no external comments provided.

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

No comments were provided.

11. 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?

No scientific data was used to develop the rules.

12. 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? *Alternative regulations may include performance-based regulations, which define the required outcome, but do not dictate the process the regulated stakeholders must use to comply.*

No alternative regulations were considered for the rules, as the rules are driven by statute.

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

The rules were reviewed by the legal staff and rule developers at ODJFS prior to the clearance process to ensure it did not duplicate any existing Ohio regulations.

14. 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 rule is final filed, a transmittal letter will be generated explaining the changes to the rule and the rationale for the changes. The transmittal letters can be viewed at <http://emanuals.jfs.ohio.gov/FamChild/FCASM/FCASMTL/>. 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

15. Provide a summary of the estimated cost of compliance with the rule(s). Specifically, please do the following:

a. Identify the scope of the impacted business community, and

The rules included in this BIA contain requirements for foster care agencies that include eighty-eight public and over one hundred private agencies. PCPAs are to follow requirements in order to obtain and/or maintain certification.

b. Quantify and identify the nature of all adverse impact (e.g., fees, fines, employer time for compliance, etc.).

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 for each of the requirements would vary based upon the size and staffing of each agency and would include the actual cost of completing each requirement, in addition to the time needed for staff to complete the requirement and report or enter the needed information for rule compliance in meeting the requirement. Given the variance in size, structure, and business model of each PCPA, ODJFS is unable to project a cost for a sample provider or the entire PCPA community at large with any confidence.

- 16. Are there any proposed changes to the rules that will reduce a regulatory burden imposed on the business community? Please identify. (*Reductions in regulatory burden may include streamlining reporting processes, simplifying rules to improve readability, eliminating requirements, reducing compliance time or fees, or other related factors*).**

There are no proposed changes within OAC 5101:2-42-66 and 5101:2-42-66.2 that will reduce a regulatory burden imposed on the business community.

- 17. 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 the rules are necessary.

Regulatory Flexibility

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

There are no alternative means of compliance.

- 19. 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?**

Not Applicable.

- 20. What resources are available to assist small businesses 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.