



Common Sense Initiative

Mike DeWine, Governor
Jon Husted, Lt. Governor

Carrie Kuruc, Director

Business Impact Analysis

Agency, Board, or Commission Name: Ohio Department of Health

Rule Contact Name and Contact Information:

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

Help Me Grow Home Visiting

Rule Number(s): 3701:8-01; 3701:8-02; 3701:8-03; 3701:8-04; 3701:8-05; 3701:8-06;
3701:8-07; 3701:8-08; 3701:8-09; 3701:8-10

Date of Submission for CSI Review: 05/30/2023

Public Comment Period End Date: 06/29/2023

Rule Type/Number of Rules:

New/ rules

No Change/ rules (FYR?)

Amended/ 10 rules (FYR? X)

Rescinded/ rules (FYR?)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):

- a. ☒ **Requires a license, permit, or any other prior authorization to engage in or operate a line of business.**
- b. ☐ **Imposes a criminal penalty, a civil penalty, or another sanction, or creates a cause of action for failure to comply with its terms.**
- c. ☒ **Requires specific expenditures or the report of information as a condition of compliance.**
- d. ☐ **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.

Ohio Administrative Code Chapter 3701-8 outlines the requirements of home visiting service delivery for ODH funded programs. The regulations outline participant and provider eligibility, personnel requirements, quality assurance and monitoring, record keeping, rights and privacy practices, criteria for reimbursement, and responsibilities of the central intake and referral contractor.

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.**

Ohio Revised Code 3701.61

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.

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Yes. By requiring the use of evidence-based practices as prescribed by Social Security Act, Title V, Section 511 (42 U.S.C. 711), the state of Ohio maintains eligibility for additional funding from the federal Maternal, Infant, and Early Childhood Home Visiting grant.

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

Rule does not exceed the minimal 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)?**

This regulation is being proposed to ensure that state and federally funded home visiting services utilize promising-practice or evidence-based models. It will ensure that programs are implementing the standards as required by the promising-practice or evidence-based models. By doing so, ODH believes these regulations will serve to improve birth and child developmental outcomes in Ohio's most at-risk communities.

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

Governor DeWine set a goal of tripling the number of families served by Ohio's home visiting program. Success will be measured by an increase in the number of families who are eligible to receive services, an increase in the number of counties providing services and an increase in the number of evidence-based and promising-practice models being implemented across the state.

- 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.

- A series of six regional meetings were conducted with current Home Visiting providers to gather input and information on their suggested changes. The virtual meeting schedule for each region of the state was as follows:
 - West Central – February 17, 2023
 - East Central – February 21, 2023
 - Southwest – February 22, 2023
 - Northeast – February 24, 2023
 - Northwest – February 24, 2023
 - Southeast – February 27, 2023
- Bright Beginnings, the central intake and referral agency, and their regional subcontractors, provided input on suggested rule changes during a meeting on February 13, 2023.

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

Service providers and central intake and referral agency staff provided input on language clarifying the eligibility process and when to exit a family from the program when the family is unable to be contacted. They also provided input on the need to clarify if families involved in the child welfare system and foster families are eligible to receive services. ODH documented all feedback and incorporated into the rules where appropriate.

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?

These regulations are informed by data published by the national office of Home Visiting Evidence of Effectiveness (HomVEE). HomVEE provides an assessment of the evidence of effectiveness for home visiting program models that target families with pregnant women and children from birth to kindergarten entry.

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?

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Home visiting is a service facilitated by ODH, with specific requirements mandated by ORC 3701.61. The agency conducted a search of regulatory alternatives, to include those closely related to serving similar target populations. Having not identified current regulations that would satisfy enacted ORC, ODH is proposing this revised draft. Where possible, ODH streamlined the draft regulations, removing rules that were duplicative. Moreover, where appropriate, ODH transferred requirements from regulation to language in provider agreements, contracts or grants.

13. 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.

Yes. In accordance with ORC 3701.61, this draft regulation was developed to be both performance and evidenced-based. This draft regulation strives to ensure that all state funded home visiting programs demonstrate improvement in six key areas: 1. Improved family economic self-sufficiency; 2. Improvement in maternal and newborn health; 3. Reduction in child injuries, abuse, and neglect; 4. Improved school readiness and achievement; 5. Reduction in incidents of domestic violence; and 6. Improved coordination and referral for community resources and supports.

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

The agency conducted a review of current Administrative Code, seeking to avoid duplication of existing regulations.

15. 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.

Upon approval of regulation, ODH will implement a comprehensive communication plan to share rule changes and implementation policies and procedures. This plan will include statewide webinars. To ensure that regulations are consistent and predictable, ODH will create a home visiting policy and procedure manual, including both department and provider responsibilities. Where appropriate, previous rule requirements will be transferred to provider agreements and contracts.

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Adverse Impact to Business

16. 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; and

Entities qualified to contract with the state of Ohio to facilitate home visiting services as currently established by OAC 3701-8-06. Currently, the department has entered into agreements with nonprofit or local government entities to facilitate the service in the state of Ohio. The proposed rules would have no impact on their eligibility to continue to provide the services. State home visiting funding is allocated as a fee for service model.

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

The department does not anticipate any adverse fiscal impact for compliance with these draft rules.

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 department does not anticipate any adverse fiscal impact as a result of these proposed regulations.

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

The department does not anticipate any adverse fiscal impact as a result of these proposed regulations.

Regulatory Flexibility

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

No, the department does not provide exemptions or alternative means of compliance. Providers of home visiting services must meet the minimum requirements under this rule to ensure service delivery to fidelity.

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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?

ODH has developed a comprehensive statewide home visiting quality assurance plan that guides the agency's monitoring and compliance efforts. First-time offenders of agency policy who meet the criteria outlined in ORC 119.14 are provided technical assistance by the department, and if warranted, placed on a corrective action plan, free of any fines or penalties.

20. What resources are available to assist small businesses with compliance of the regulation?

ODH facilitates a "Community of Practice" webinar each month for providers. These provider-peer driven webinars are designed to highlight qualitative and monitoring efforts from a strength's perspective. Additionally, the department will provide individual technical assistance upon request, at no cost to the vendor. The department also provides free professional development to providers to assist with model-specific implementation.