MEMORANDUM

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

FROM: Sydney King, Regulatory Policy Advocate

DATE: February 21, 2014

RE: **CSI Review –FYR Chapter 5101:2-5 (OAC 5101:2-5-13.1, 5101:2-5-23, 5101:2-5-27, 5101:2-5-28, 5101:2-5-29, 5101:2-5-36, 5101:2-5-37, and 5101:2-5-40)**

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This rule package consists of seven amended rules and one rescinded rule being proposed by the Ohio Department of Job and Family Services (ODJFS) pursuant to the five-year review requirement of ORC 119.032.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 January 22, 2014 and the comment period for the rule closed on January 28, 2014. No comments were received during the public comment period.

The proposed rules provide the requirements for Private Noncustodial Agencies (PNA), Public Children Services Agencies (PCSAs) and Private Child Placing Agencies (PCPAs) when monitoring and certifying foster homes. The rules regulate disaster preparedness plans, agency procedures for certifying and monitoring, record maintenance and retention, treatment and medically fragile type foster home service plans, and agency training programs.

According to the revised BIA, the rule package was presented to stakeholders during the Midwest Child Welfare Implementation Center (MCWIC) meetings. Stakeholders included the Ohio

Association of Child Caring Agencies, the Ohio Family Care Association, representatives from county agencies, and the Ohio Council of Behavioral Health and Family Services Providers. The rules were amended based on stakeholder input. ODJFS also provided a clearance comment period to receive feedback from stakeholders during drafting and again amended the draft rules based on feedback. No comments were received during the public comment period.

The revised BIA identifies the adverse impacts as the administrative costs associated with compliance but focuses on the impact to PCPAs and PNAs because the PCSAs, as public entities, are not businesses. In order to obtain and maintain certification with ODJFS, the requirements set forth in the rule must be met. PCPAs and PNAs are required to complete a disaster preparedness plan, complete and submit multiple forms to ODJFS, review and investigate certified foster homes to ensure compliance, submit training programs to ODJFS for approval, maintain and retain records, create written policies for treatment and medically fragile type foster homes, and maintain twenty-four hour on-call staff for treatment and medically fragile type foster homes. ODJFS attempted to quantify the impact of the requirements but stakeholders were unable to ascertain the costs.

ODJFS states the rules are necessary and justified in order to accomplish the requirement set forth in Ohio Revised Code 5103.03. ODJFS is charged with the oversight of children in substitute care and these rules will contribute to the overall safety and well-being of the children. Each of the rules address to some degree a child's physical safety, medical needs, special needs, and privacy.

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

<u>Recommendation</u>
For the reasons explained above this office does not have any recommendations regarding this rule package.

<u>Conclusion</u>
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