

**MEMORANDUM**

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

**FROM:** Sydney King, Regulatory Policy Advocate

**DATE:** February 19, 2015

**RE:** **CSI Review – UC Voluntary Elections, Quarterly Payments, No Common Paymaster, Exception to Changes Rule Package (OAC 4141-7-04, 4141-11-02, 4141-11-13, and 4141-35-03)**

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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 four amended rules being reviewed by the Ohio Department of Job and Family Services (ODJFS) in accordance with the statutory five-year review requirement. The rule package was filed with the CSI Office on December 19, 2014, and the comment period for the rules closed on December 27, 2014.

In Ohio, when an employer acquires another business, it may obtain the unemployment tax rate history of the previous employer. This is known as successorship-in-interest, and depending on the percentage of assets acquired, may be automatic or voluntarily elected by the acquiring business. Rule 4141-7-04 establishes a minimum duration of two calendar years during which an employer will remain a successor-in-interest under a voluntary election. After the minimum duration has passed, the employer may notify ODJFS in writing of the successor's desire to terminate the voluntary election.

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Rule 4141-11-02 provides the quarterly payment due dates for an employer's unemployment contributions. The regulation also details the process for payment if the employer is delinquent for prior quarter account balances. Finally, the rule addresses the interest rate on any balance due.

Rule 4141-11-13 prohibits one legal entity from reporting or making payments for another legal entity; known as common paymaster reporting. In order to be compliant, the employer must report and make required payments with respect to its own account.

Rule 4141-35-03 provides the process for filing an exception to benefits charged to an employer's account. If an employer believes benefit payments were improperly charged to its account, the employer files an exception to ODJFS. The written exception includes employer information, claimant information, and information detailing why the charges are not appropriate.

According to the BIA, stakeholders had an opportunity to comment during the ODJFS clearance process. Stakeholders included the Ohio Chamber of Commerce, Ohio National Federation of Independent Business, and Policy Matters Ohio. ODJFS did not receive comments during the clearance period and no comments were received during the CSI comment period.

The BIA identifies the adverse impact as the time expended by employers to comply by filing the necessary documentation and submitting the quarterly payments by the due date. ODJFS asserts the time will vary depending on the employer and details. ODJFS estimates it will take fifteen minutes to sixty minutes. ODJFS states the rules are necessary to comply with federal requirements. The rules are also necessary to provide a process for employers to terminate voluntary successorship, submit timely quarterly payments, and file exceptions to benefit charges. Additionally, ODJFS states ORC 4141.24(a) requires employers to make payments on their own accounts and therefore would prohibit the practice of a common paymaster.

After reviewing the proposed rules and the BIA, the CSI Office has determined that the rule package satisfactorily meets the standards espoused by the CSI Office.

### **Recommendation**

For the reasons explained above, this office does not have any recommendations regarding this rule package.

### **Conclusion**

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