



Common Sense Initiative

Mike DeWine, *Governor*
Jon Husted, *Lt. Governor*

Joseph Baker, *Director*

MEMORANDUM

TO: Alicia Leatherman, Ohio Department of Health

FROM: Michael Bender, Business Advocate

DATE: September 21, 2023

RE: CSI Review – Help Me Grow (OAC 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, and 3701-8-10)

On behalf of Lt. Governor Jon Husted, 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 Department as provided for in ORC 107.54.

Analysis

This rule package consists of ten amended rules proposed by the Ohio Department of Health (ODH) as part of the statutory five-year review process. This rule package was submitted to the CSI Office on May 30, 2023, and the public comment period was held open through June 29, 2023. Unless otherwise noted below, this recommendation reflects the version of the proposed rules filed with the CSI Office on May 30, 2023.

Ohio Administrative Code (OAC) 3701-8-01 specifies definitions pertaining to home visiting service delivery. The rule is amended to revise definitions and remove a term. OAC 3701-8-02 sets forth eligibility to receive home visiting services through ODH-funded programs. The rule is amended to update language, raise the age of eligible children from under two years old to under three years old, clarify children in foster care and their foster families are eligible for home visiting services in accordance with model-fidelity standards, require the centralized intake and referral contractor to notify the home visiting provider when unable to determine eligibility, and require the home visiting provider to confirm eligibility when the centralized intake and referral contractor is unable to do so. OAC 3701-8-03 provides for the procedure for entities wishing to become a home visiting provider

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to be approved by the Director of ODH. The rule is amended to update language, correct typos, remove a requirement that an implementation plan be submitted as part of the entity's application, and clarify a provider must achieve affiliation, rather than accreditation, with an evidence-based or promising-practice model. OAC 3701-8-04 outlines the personnel and supervision requirements for providers of home visiting services. The rule is amended to update language and the effective date for individuals holding a supervisor position as it relates to meeting education requirements. OAC 3701-8-05 provides for the provision of home visiting services. The rule is amended to update language, require home visiting services to utilize an evidence-based family education curriculum and be delivered in accordance with model-fidelity and quality standards, remove a provision allowing military identification to be used to verify family fiscal eligibility, remove a duplicative requirement to provide a copy of the home visiting participants' rights and privacy practices, clarify home visiting providers must use the statewide data system to inform central intake each time a child or family is transferring to a different provider, remove a duplicative requirement that a copy of the family goal plan to be provided to the family within ten days of completion, and require families to be exited from the program if the program is unsuccessful at making contact after thirty days of receiving a referral from central intake.

OAC 3701-8-06 provides for the monitoring of providers by ODH to ensure compliance with the rules of the chapter, the terms of an agreement or contract, the quality assurance standards set forth by the implemented model, and applicable federal and state laws. The rule is amended to update language. OAC 3701-8-07 provides for the retention and maintenance of certain records and data by home visiting providers. The rule is amended to update language, remove unnecessary language, require home visiting programs to notify ODH within ten days of an activity that would initiate deactivation of a user's access to the statewide data system, and require those with an expired Home Visiting Credential to have access to the statewide data system terminated. OAC 3701-8-08 outlines the rights of home visiting program participants and establishes practices designed to ensure participants' privacy. The rule is amended to update language. OAC 3701-8-09 sets forth the criteria for reimbursement of home visiting services. The rule is amended to update language, remove unnecessary language, and allow providers to be reimbursed for activities that exceed the established cap with prior authorization from ODH. OAC 3701-8-10 specifies requirements for central intake and referral system contractors that are qualified nonprofit entities as defined by the Ohio Department of Taxation and which have entered into contracts or subsidy agreements with or been awarded grant funds by ODH. The rule is amended to update language, remove unnecessary language, remove the option for central intake contractors to confirm eligibility by verifying military identification, remove a requirement for a contractor to enter a program referral to an early intervention service coordination contractor into the statewide data system in situations where a caregiver communicates a concern about the child's development, and clarify that central intake does not need to contact a family for which it has received a referral if that family has declined services within the previous fourteen days.

During early stakeholder outreach, ODH conducted a series of six regional meetings with current home visiting providers throughout the state in February 2023 to gather input and information on their suggested changes to the rules. Bright Beginnings, which is the central intake and referral agency, and their regional subcontractors also provided input and suggested changes during a separate meeting on February 13, 2023. ODH incorporated feedback into the rules with respect to language clarifying the eligibility process and when to exit a family from the program in cases where contact with the family cannot be made, in addition to input on clarifying whether families involved in the child welfare system and foster families are eligible to receive services. During the CSI public comment period, ODH received one comment from Summit County Public Health asserting it was challenging for providers to complete a home visit within ten days of successfully contacting a family. ODH responded that the longer the time between contact and the initial visit, the more likely it is that a family would not participate in the services. ODH made no changes due to the comment but did make a few technical corrections to the rules.

The business community impacted by the rules includes qualified entities that contract with the State of Ohio to facilitate home visiting services. These entities include nonprofits and local governments. The adverse impacts created by the rules include eligibility criteria, data entry, personnel and supervision requirements, referral requirements, and recordkeeping. ODH states that the adverse impacts to business are justified to improve birth and child developmental outcomes in Ohio's most at-risk communities.

Recommendations

Based on the information above, the CSI Office has no recommendations on this rule package.

Conclusion

The CSI Office concludes that ODH should proceed in filing the proposed rules with the Joint Committee on Agency Rule Review.