

## Rule Summary and Fiscal Analysis

### Part A - General Questions

**Rule Number:** 173-14-23

**Rule Type:** Rescission

**Rule Title/Tagline:** Initial designation of regional long-term care ombudsman programs: process.

**Agency Name:** Department of Aging

**Division:**

**Address:** 30 E Broad St. 22nd Floor Columbus OH 43215-3414

**Contact:** Tom Simmons **Phone:** 614-202-7971

**Email:** tsimmons@age.ohio.gov

#### I. Rule Summary

1. Is this a five year rule review? Yes
  - A. What is the rule's five year review date? 11/16/2023
2. Is this rule the result of recent legislation? Yes
  - A. If so, what is the bill number, General Assembly and Sponsor? SB 9 - 134 - McColley, Roegner
3. What statute is this rule being promulgated under? 119.03
4. What statute(s) grant rule writing authority? 121.07, 173.01, 173.02, 173.16; 42 U.S.C. 3025, 3058g; 45 C.F.R. 1321.11, 1324.11, 1324.13, 1324.15
5. What statute(s) does the rule implement or amplify? 173.16; 42 U.S.C. 3058g; 45 C.F.R. 1321.11, 1324.11
6. Does the rule implement a federal law or rule in a manner that is more stringent or burdensome than the federal law or regulation requires? No
  - A. If so, what is the citation to the federal law or rule? Not Applicable
7. What are the reasons for proposing the rule?

This rule exists to establish the process for designating a regional long-term care ombudsman program.

- 8. Summarize the rule's content, and if this is an amended rule, also summarize the rule's changes.**

This rule establishes the process for designating a regional long-term care ombudsman program.

ODA proposes to rescind this rule and to simultaneously adopt a new rule in its place. Please review the RSFA for the proposed new rule for details on differences between the proposed new rule and this rule.

- 9. Does the rule incorporate material by reference? No**
- 10. If the rule incorporates material by reference and the agency claims the material is exempt pursuant to R.C. 121.75, please explain the basis for the exemption and how an individual can find the referenced material.**

*Not Applicable*

- 11. If revising or re-filing the rule, please indicate the changes made in the revised or re-filed version of the rule.**

*Not Applicable*

## **II. Fiscal Analysis**

- 12. Please estimate the increase / decrease in the agency's revenues or expenditures in the current biennium due to this rule.**

This will have no impact on revenues or expenditures.

\$0.00

Rescinding this rule will not affect the biennial budget that the Ohio General Assembly established for the ombudsman program in House Bill 33 (135th G.A.).

- 13. What are the estimated costs of compliance for all persons and/or organizations directly affected by the rule?**

This rule regulates only the ombudsman program itself. It does not create a cost of compliance to any person or organization outside of the ombudsman program.

14. Does the rule increase local government costs? (If yes, you must complete an RSFA Part B). No
15. Does the rule regulate environmental protection? (If yes, you must complete an RSFA Part C). No
16. If the rule imposes a regulation fee, explain how the fee directly relates to your agency's cost in regulating the individual or business.

Not Applicable

### **III. Common Sense Initiative (CSI) Questions**

17. Was this rule filed with the Common Sense Initiative Office? No
18. Does this rule have an adverse impact on business? No
  - A. Does this rule require a license, permit, or any other prior authorization to engage in or operate a line of business? No
  - B. Does this rule impose a criminal penalty, a civil penalty, or another sanction, or create a cause of action, for failure to comply with its terms? No
  - C. Does this rule require specific expenditures or the report of information as a condition of compliance? No

This rule does not regulate any Ohio business.
  - D. Is it likely that the rule will directly reduce the revenue or increase the expenses of the lines of business of which it will apply or applies? No

### **IV. Regulatory Restriction Requirements under S.B. 9. Note: This section only applies to agencies described in R.C. 121.95(A).**

19. Are you adding a new or removing an existing regulatory restriction as defined in R.C. 121.95? Yes
  - A. How many new regulatory restrictions do you propose adding to this rule? 0

**B. How many existing regulatory restrictions do you propose removing from this rule? 24**

1. [introductory] The SLTCO SHALL NOT designate an agency as a new regional long-term care ombudsman program (regional program) unless the agency has complied with all the required structural standards established in paragraph (B) of rule 173-14-22 of the Administrative Code, and has completed an ombudsman plan acceptable to the SLTCO

2. [introductory] The SLTCO SHALL temporarily designate a new regional program as needed.

3. (A)(1) In consultation with the AAA, the SLTCO SHALL issue a request for proposal (RFP) seeking a sponsoring agency to serve as the regional program.

4. (A)(1) The RFP SHALL identify all requirements...

5. (A)(1) ...that a sponsoring agency SHALL meet in order to be designated as a regional program...

6. (A)(1) and SHALL...

7. (A)(1) ...REQUIRE any agency that responds to the RFP, within thirty days after responding, to provide the SLTCO with an ombudsman plan and documents to support the sponsoring agency's claim to meet these requirements.

8. (A)(2) The SLTCO SHALL conduct an on-site visit to each of the eligible agencies responding to the RFP to verify the facts presented in each proposal.

9. (A)(3) The SLTCO SHALL review the ombudsman plans of all proposals submitted...

10. (A)(3) ...and SHALL choose the agency most appropriate to serve as the regional program.

11. (A)(3) When making a decision, the SLTCO SHALL take into consideration the recommendation of the AAA.

12. (A)(4) The SLTCO SHALL notify the AAA and responding agencies of the decision.

13. (A)(4) The SLTCO SHALL include in the notification the right of every agency not chosen to request a hearing to appeal the SLTCO's decision.
  14. (A)(4) The notice and hearing process SHALL follow the procedures in Chapter 119. of the Revised Code.
  15. (A)(5) The SLTCO SHALL notify the agency of its designation year.
  16. (B) At a minimum, the contract SHALL specify the following
  17. (B)(2) A requirement that the regional program SHALL abide by all state and federal laws, regulations, policies and procedures governing the office of the SLTCO.
  18. (B)(3) A requirement that the regional program SHALL abide by all ODA policies and procedures relating to contractors.
  19. (B)(4) A requirement that the regional program SHALL comply with all of the reporting requirements in rule 173-14-19 of the Administrative Code.
  20. (C)(1) [unnumbered] The summary and action plan SHALL address areas of positive practices and concern.
  21. (C)(1) [unnumbered] In addition, the summary and action plan SHALL specify actions to be taken by the regional program to correct problem areas or any violation of the law or the structural standards that are discovered during the initial designation process.
  22. (C)(2) The summary and action plan SHALL be developed by the regional program then reviewed and finalized by the SLTCO.
  23. (C)(3) Once the summary and action plan has been issued, the regional program's director, AAA, or sponsoring agency involved in the designation process SHALL be given thirty days to provide written or electronic comments to the SLTCO on the content of the summary and action plan.
  24. (C)(3) If these parties do not provide written or electronic comments to the SLTCO within thirty days, the summary and action plan SHALL go into effect.
- C. If you are not removing existing regulatory restrictions from this rule, please list the rule number(s) from which you are removing restrictions.**

**D. Please justify the adoption of the new regulatory restriction(s).**

Not Applicable