

Rule Summary and Fiscal Analysis

Part A - General Questions

Rule Number: 173-3-06.6

Rule Type: Amendment

Rule Title/Tagline: Older Americans Act: transportation.

Agency Name: Department of Aging

Division:

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I. Rule Summary

1. **Is this a five year rule review?** Yes
 - A. **What is the rule's five year review date?** 10/14/2022
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, 173.392; 42 U.S.C. 3025; 45 C.F.R. 1321.11
5. **What statute(s) does the rule implement or amplify?** 173.39, 173.392, 4766.14, 4766.15; 42 U.S.C. 3025, 3030d, 3032c, 3032e; 45 C.F.R. 1321.11, 1321.65
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 comply with R.C. §173.392 and 45 C.F.R. 1321.11. The primary purpose of this filing is to reduce regulatory restrictions.

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

This rule establishes requirements applying only to agreements for transportation (respectively). ODA proposes to amend this rule to achieve the following:

1. Delete unnecessary regulatory restrictions. This includes deleting paragraph (B)(4)(b) of this rule because the topic is already covered in paragraph (B)(9)(a) of rule 173-3-06 of the Administrative Code.
2. Reference section 4765.02 of the Revised Code in the definition of Board of EMFTS.
3. On forms ODA0008 and ODA0011, (1) replace biohazard kit with isolation and biohazard disposal kit to comply with section 4766.14 of the Revised Code and (2) list the minimum required contents of the kit.
4. Indicate the revision dates for forms ODA0008 and ODA0011 in this rule.
5. Exempt the requirement for collecting the unique identifier of the consumer's caregiver (in lieu of the consumer) during a state of emergency declared by the governor or a federal public health emergency.
7. Replace administrative costs, training costs, and documentation costs in paragraph (C)(2) of this rule with administrative and training costs since administration includes documentation.

9. Does the rule incorporate material by reference? Yes

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.

This rule refers to forms which the public can access on <https://aging.ohio.gov/agencies-and-service-providers/rules-and-forms/forms>.

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

Not Applicable

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

Please review the BIA for details.

- 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? Yes**

- 18. Does this rule have an adverse impact on business? Yes**

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?** Yes

Please review the BIA for details.

- 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?** 19

(B) In every AAA-provider agreement for transportation paid, in whole or in part, with Older Americans Act funds, the AAA SHALL include the following requirements:

(B)(1)(a) In the AAA-provider agreement, the AAA SHALL include the requirements in rule 173-3-06 of the Administrative Code for every AAA-provider agreement paid, in whole or in part, with Older Americans Act funds.

(B)(1)(b) A self-employed provider SHALL possess a back-up plan....

(B)(1)(c) In each AAA-provider agreement, the AAA SHALL list situations when drivers...

(B)(1)(c) ...SHALL provide consumers with assistance to safely enter and exit vehicles, pick-up locations, and drop-off locations.

(B)(2)(b)(i) The provider SHALL only use a vehicle for transporting consumers if a mechanic....

(B)(2)(b)(ii) The provider SHALL only use a vehicle only if, before providing the first trip of the day, the provider inspected it....

(B)(3)(a) The provider SHALL NOT hire a person to be a driver unless the person meets all the requirements for drivers under divisions (A)(3) and (B) of section 4766.14 of the Revised Code, subject to the following conditions:

(B)(3)(a)(i) To comply with the first aid requirement, the applicant's training SHALL come from a training organization approved by the board of EMFTS (<http://www.ems.ohio.gov/medical-transportation-faq.aspx>).

(B)(3)(a)(ii) To comply with the [CPR] requirement, the applicant's training SHALL come from a training organization approved by the board of EMFTS (<http://www.ems.ohio.gov/medical-transportation-faq.aspx>).

(B)(3)(a)(iii) To comply with the drug testing requirement, the applicant's test results SHALL come from a CLIA-certified laboratory...

(B)(3)(a)(iii) ...and SHALL declare the applicant to be free of alcohol, amphetamines, cannabinoids (THC), cocaine, opiates, or phencyclidine (PCP).

(B)(3)(a)(iv) To comply with the background check requirement, the provider SHALL comply with the background-check requirements in Chapter 173-9 of the Administrative Code,....

(B)(3)(b) The provider SHALL NOT hire a person to be a driver unless only if the person meets all the following requirements:

(B)(3)(b) The provider SHALL NOT hire a person to be a driver unless the person meets all the following requirements:

(B)(3)(c) No later than six months after the provider hires a driver, the driver SHALL successfully complete a passenger-assistance training course approved by the board of EMFTS (<http://www.ems.ohio.gov/medical-transportation-faq.aspx>).

(B)(4)(a) For each trip provided, the driver SHALL record....

(B)(4)(b) In the AAA-provider agreement, the AAA SHALL NOT....

(B)(4)(b) ...PROHIBIT a provider from using an electronic system to collect and retain the records required in paragraph (B)(4)(a) of this rule.

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