

**Rule Summary and Fiscal Analysis (Part A)****Department of Aging**

Agency Name

Division

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**173-35-01**

Rule Number

**NEW**

TYPE of rule filing

Rule Title/Tag Line

**Introduction and definitions.****RULE SUMMARY**

1. Is the rule being filed consistent with the requirements of the RC 119.032 review? **No**

2. Are you proposing this rule as a result of recent legislation? **No**

3. Statute prescribing the procedure in accordance with the agency is required to adopt the rule: **119.03**

4. Statute(s) authorizing agency to adopt the rule: **173.02, 173.35, Section 1616(b)(2) of the Social Security Act**

5. Statute(s) the rule, as filed, amplifies or implements: **173.35, 173.351**

6. State the reason(s) for proposing (i.e., why are you filing,) this rule:

ODA is proposing to adopt this proposed new rule as a replacement for a rule of the same number. This rule proposal is part of a larger package of rule proposals for the RSS program. As stated in greater detail in the public hearing notice, ODA is proposing to rescind rules 173-35-04 and 173-35-05 of the Administrative Code, and to replace the remaining rules of Chapter 173-35 of the Administrative Code with new rules. In doing so, ODA's goals are to:

1. Comply with the review required under section 119.032 of the Revised Code.

2. Comply with Governor Strickland's Executive Order 2008-04S: "Implementing Common Sense Business Regulation," which requires all state agencies to write easier-to-read and easier-to-comprehend rules to promote transparency in state regulations.
3. Present a more complete list of eligibility criteria in rule 173-35-02 of the Administrative Code.
4. Comply with Am. Sub. H. B. No. 1 (128th G. A.), which now uses money-follows-the-person language and sets the current rates for the program.
5. Eliminate the rule that regulates case managers.

7. If the rule is an AMENDMENT, then summarize the changes and the content of the proposed rule; If the rule type is RESCISSION, NEW or NO CHANGE, then summarize the content of the rule:

This proposed new rule introduces Chapter 173-35 of the Administrative Code, which regards the Residential State Supplement Program, and defines terms used throughout Chapter 173-35 of the Administrative Code.

In comparison to the rule of the same number that ODA is simultaneously proposing to rescind, this proposed new rule has some changes:

1. ODA no longer defines terms in this rule that appear (or primarily appear) in one rule of the chapter. Instead, for easier reading, ODA now defines the terms that appear (or primarily appear) in only one rule in the one rule where the term is used (or primarily used) or ODA allows the context of the rule to define the term. As a result, the proposed new rule no longer defines "accommodations," "assessment," "authorized representative," "case manager," "case management," "immediate family member," "legal representative," "nursing facility," "personal care service," "protective level of care," "provider," "residential care plan," "skilled nursing care," "SSDI," "SSI," "supervision," and "waiting list."
2. ODA no longer defines terms in this rule that do not appear in the chapter. The terms ODA no longer defines are "area agency on aging," "community setting," "long-term care consultation administrator," and "planning and service area."
3. ODA no longer defines the Residential State Supplement Program in the introductory paragraph of the rule; but, instead, defines it under the definition for "Residential State Supplement Program." Additionally, ODA consolidated the remaining text in paragraph (A) of the rule with the text in the unnumbered paragraph under paragraph (A) of the rule that ODA is proposing to rescind into the new paragraph (A) of the rule.
4. ODA no longer defines "resident" as, "means an individual enrolled in the RSS

program." Now ODA defines "resident" as, "means an individual who is enrolled in the RSS program."

5. ODA no longer defines "facility" because the term falls under the definition of "living arrangement," which is comprised of different types of living arrangements mentioned in division (C)(1) of section 173.35 of the Revised Code, some of which have the word "facility" in their name. ODA incorporated the words, "includes the owner, operator, employees, and volunteers who provide accommodations, supervision, and personal care services in the facility" from the definition of "facility" into the definition for "living arrangement." Additionally, ODA no longer defines "approved community living arrangement," because the definition for "living arrangement" cites the Revised Code which preempts the rule that the definition for "approved community living arrangement" cited.

6. ODA now uses "ODA's designee" instead of "PASSPORT administrative agency" or "PAA."

8. If the rule incorporates a text or other material by reference and the agency claims the incorporation by reference is exempt from compliance with sections 121.71 to 121.74 of the Revised Code because the text or other material is **generally available** to persons who reasonably can be expected to be affected by the rule, provide an explanation of how the text or other material is generally available to those persons:

*This response left blank because filer specified online that the rule does not incorporate a text or other material by reference.*

9. If the rule incorporates a text or other material by reference, and it was **infeasible** for the agency to file the text or other material electronically, provide an explanation of why filing the text or other material electronically was infeasible:

*This response left blank because filer specified online that the rule does not incorporate a text or other material by reference.*

10. If the rule is being **rescinded** and incorporates a text or other material by reference, and it was **infeasible** for the agency to file the text or other material, provide an explanation of why filing the text or other material was infeasible:

*Not Applicable.*

11. If **revising** or **refiling** this rule, identify changes made from the previously filed version of this rule; if none, please state so:

On November 24, 2010, ODA revised this rule to:

1. Insert the following sentence to the end of paragraph (B)(4) of the rule: "The current PASSPORT administrative agencies are the area agencies on aging listed in rule 173-2-04 of the Administrative Code plus 'Catholic Social Services of the Miami Valley.'"
2. Revise this RSFA.

12. 119.032 Rule Review Date:

(If the rule is not exempt and you answered NO to question No. 1, provide the scheduled review date. If you answered YES to No. 1, the review date for this rule is the filing date.)

NOTE: If the rule is not exempt at the time of final filing, two dates are required: the current review date plus a date not to exceed 5 years from the effective date for Amended rules or a date not to exceed 5 years from the review date for No Change rules.

**FISCAL ANALYSIS**

13. Estimate the total amount by which *this proposed rule* would **increase / decrease** either **revenues / expenditures** for the agency during the current biennium (in dollars): Explain the net impact of the proposed changes to the budget of your agency/department.

This will have no impact on revenues or expenditures.

\$0.00

ODA does not anticipate that the proposed replacement of rule 173-35-01 of the Administrative Code with this new rule of the same number will have any impact upon the biennial budget that the Ohio General Assembly established for ODA.

14. Identify the appropriation (by line item etc.) that authorizes each expenditure necessitated by the proposed rule:

GRF-490-412 Residential State Supplement.

4J40-490-610 PASSPORT/Residential State Supplement.

3C40-490-623 Long-Term Care Budget.

15. Provide a summary of the estimated cost of compliance with the rule to all

directly affected persons. When appropriate, please include the source for your information/estimated costs, e.g. industry, CFR, internal/agency:

Because the proposed new rule merely introduces the chapter and defines terms, and because the proposed new rule is replacing a similar rule of the same number, ODA estimates that there is no cost of compliance to any directly-affected person associated with the adoption of this proposed new rule.

16. Does this rule have a fiscal effect on school districts, counties, townships, or municipal corporations? **No**

17. Does this rule deal with environmental protection or contain a component dealing with environmental protection as defined in R. C. 121.39? **No**