

Rule Summary and Fiscal Analysis

Part A - General Questions

Rule Number: 173-38-03

Rule Type: Rescission

Rule Title/Tagline: Assisted living program (medicaid-funded component): enrollment and reassessment of individuals.

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?** 9/27/2023
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, 173.54
5. **What statute(s) does the rule implement or amplify?** 173.54, 173.542, 173.55; 42 C.F.R. 441.352
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 enrollment process for the Medicaid-funded component of the Assisted Living Program.

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

This rule establishes the enrollment process for the Medicaid-funded component of the Assisted Living Program.

Because ODA's proposals to amend this rule will result in amending approximately more than 50% of the rule, so ODA proposes to rescind the rule and to adopt a new rule in its place to comply with the 50% guideline in §4.3.1 of LSC's Rule Drafting Manual.

Please review the RSFA for the proposed new rule for details on the differences between this rule and the proposed new rule.

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 references form ODA1044, which ODA publishes on its website and where the general public may view or download free of charge at any time.

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 impact the biennial budget that the Ohio General Assembly established for ODA 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?

The estimated cost of compliance to an applicant is the act of applying for the Medicaid-funded component of the Assisted Living Program and cooperating with ODA's designee and ODM's administrative agency on their assessments of eligibility.

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
 - 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? 13

1. (A) ...ODM's administrative agency SHALL determine if the individual meets all medicaid financial eligibility requirements required by that rule....

2. (A) ...and ODA's designee SHALL determine if the individual meets all non-financial eligibility required by that rule

3. (A) The two agencies SHALL coordinate processing the request for enrollment into the medicaid-funded component of the assisted living program:

4. (A)(1) ODM's administrative agency SHALL determine if the individual meets all financial eligibility requirements...

5. (A)(1) ...and SHALL notify ODA's designee of the individual's application

6. (A)(2)(a) ODA's designee SHALL conduct an assessment....

7. (B) ..ODA's designee SHALL NOT enroll the individual in the program

8. (C)(1)(a) According to paragraph (D)(1)(c) of rule 5160:1-2-03 of the Administrative Code, ODA's designee SHALL establish the individual's medicaid waiver program enrollment date.

9. (C)(1)(b) ODA's designee SHALL establish the individual's medicaid waiver program enrollment date as the latest date that all of the following requirements are met:

10. (C)(1)(c) The medicaid-funded component of the assisted living program SHALL NOT pay for any service provided to an individual before ODA's designee establishes the medicaid waiver program enrollment date according to paragraph (C)(1)(b) of this rule.

11. (C)(2) ODA's designee SHALL NOT place the individual on the unified waiting list

12. (D) After ODA's designee conducts each reassessment, if the individual continues to qualify for the medicaid-funded component of the program, the individual SHALL decide if he or she wishes to remain in the program.

13. (D) If the individual wishes to remain, the individual SHALL sign by signing form ODA1044....

- 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