

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

Agency Name

Division

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173-39-02.11

Rule Number

NEW

TYPE of rule filing

Rule Title/Tag Line

Personal care service.**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? **Yes**

Bill Number: **HB66**General Assembly: **126**Sponsor: **Calvert**

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, 173.391**

5. Statute(s) the rule, as filed, amplifies or implements: **173.39, 173.391**

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

This rule is being proposed in an effort to implement the provider certification requirements found in sections 173.39 and 173.39.1 of the Revised Code. (With only the one exception found in section 173.39.2 of the Revised Code, section 173.39 of the Revised Code prohibits the Department of Aging from paying any person or government entity for providing community-based long-term care services under a program the Department administers unless the person or government entity has been certified by the Department or its designee under section 173.39.1 of the Revised Code.)

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 rule establishes the service specifications that must be met in order for a provider to be certified to provide Personal Care Services reimbursed through a program administered by the Department of Aging.

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:

First Revision - 2/17/06

Amended paragraph (D)(2) by inserting the words "nurse supervisor" immediately after the words "the provider", and immediately before the words "is accessible"; replaced the words "twenty-four hours per day, seven days per week" with the words "during those times when the provider's employees are scheduled to work".

Amended paragraph (D)(7)(b) by inserting the words "and compliance with the requirements described in rule 173-39-02 of the Administrative Code" at the end of

the paragraph.

Created a new paragraph (E)(1)(f).

Amended paragraph (E)(2) by replacing the words "are not listed on the Ohio department of health nurse aide registry of for" with the words "are qualified as a PCA by meeting the requirements of paragraph (E)(1)(e) of this rule, and tests must cover"; and by replacing the words "paragraph (D)(5)(d) of this rule" with the words "paragraphs (E)(1)(e)(i) to (E)(1)(e)(x) of this rule".

Deleted paragraph (E)(3) and renumbered subsequent paragraphs.

Amended paragraph (E)(6), which was renumbered as paragraph (E)(5) after the revisions described above, by replacing the words "and/or trainer must" with the words "trainer and tester may only".

Amended paragraph (F)(3)(c) by substituting the words "home care dependent adult" with the word "consumer".

First Refiling - 3/3/06

In paragraph (A)(4), the reference to "rule 173-39-02.7 of the Administrative Code" was amended to instead read "rule 173-39-02.8 of the Administrative Code."

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

Not Applicable

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

GRF 490-403, 3C4 490-607, 4J4 490-610, 4U9 490-602, GRF 490-422, 3C4 490-622

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:

This rule outlines service specifications for providers wishing to receive reimbursement for the community-based long-term care services they provide through programs administered by the Department of Aging. Provider agencies certified to provide the services described in this rule will be reimbursed for their costs by the Ohio Department of Aging at a rate negotiated between the provider and the Department's designee. Participation by providers in the programs administered by the Department of Aging is voluntary and those providers for whom the cost of participation is too great are not required to participate. The Department of Aging does not anticipate that there will be any costs of compliance to directly affected persons in the event that this rule is adopted, aside from any possible start-up costs that a provider might incur prior to receiving certification.

16. Does this rule have a fiscal effect on school districts, counties, townships, or municipal corporations? **Yes**

You must complete Part B of the Rule Summary and Fiscal Analysis in order to comply with Am. Sub. S.B. 33 of the 120th General Assembly.

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

Rule Summary and Fiscal Analysis (Part B)

1. Does the Proposed rule have a fiscal effect on any of the following?

(a) School Districts	(b) Counties	(c) Townships	(d) Municipal Corporations
No	Yes	Yes	Yes

2. Please provide an estimate in dollars of the cost of compliance with the proposed rule for school districts, counties, townships, or municipal corporations. If you are unable to provide an estimate in dollars, please provide a written explanation of why it is not possible to provide such an estimate.

Aside from the initial start-up costs associated with becoming a certified provider under this rule, the costs of compliance with this rule should be cost neutral to local governments.

As required under section 173.39 of the Revised Code, the attached rule outlines service specifications for community-based long-term care providers wishing to participate in programs administered by the Department of Aging. Local governments wishing to be certified as providers of the services described in the attached rule will necessarily incur cost to become certified, but participation in programs administered by the Department is voluntary. In addition, once certified, providers are reimbursed for the costs of the services they provide at a rate negotiated in advance between the provider and ODA's designee. Local governments that determine the costs of their participation to be too high need not participate.

The Department is unable to estimate the costs that local governments might incur to become certified providers of the services described in this rule. The costs would necessarily vary depending upon any number of factors, including but not limited to: tax base, regional economic factors, workforce availability, public contract requirements, etc.

3. If the proposed rule is the result of a federal requirement, does the proposed rule exceed the scope and intent of the federal requirement? **No**

4. If the proposed rule exceeds the minimum necessary federal requirement, please provide an estimate of, and justification for, the excess costs that exceed the cost of the federal requirement. In particular, please provide an estimate of the excess costs that exceed the cost of the federal requirement for (a) school districts, (b) counties, (c) townships, and (d) municipal

corporations.

Not Applicable.

5. Please provide a comprehensive cost estimate for the proposed rule that includes the procedure and method used for calculating the cost of compliance. This comprehensive cost estimate should identify all of the major cost categories including, but not limited to, (a) personnel costs, (b) new equipment or other capital costs, (c) operating costs, and (d) any indirect central service costs.

Please refer to the answer provided above.

(a) Personnel Costs

Unknown

(b) New Equipment or Other Capital Costs

Unknown

(c) Operating Costs

Unknown

(d) Any Indirect Central Service Costs

Unknown

(e) Other Costs

Unknown

6. Please provide a written explanation of the agency's and the local government's ability to pay for the new requirements imposed by the proposed rule.

The Department is unable to determine the ability of local governments to pay for the requirements imposed by this rule, but compliance with the rule is only required of those local governments that wish to become certified providers of the services described in the rule.

7. Please provide a statement on the proposed rule's impact on economic development.

The availability of public services is but one factor that attracts residents to a community. The community-based long-term care programs funded by the Department are not only a source of those services, but they enable older Ohioans to remain active and productive members of their communities. By enabling providers to be certified to provide the services described in this rule, it is anticipated that the attached rule will have a positive impact upon economic development in the communities in which the services are readily available.