

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

Agency Name

Division

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**173-39-02.14**

Rule Number

**RESCISSION**

TYPE of rule filing

Rule Title/Tag Line

**Home-delivered meal service.****RULE SUMMARY**

1. Is the rule being filed consistent with the requirements of the RC 119.032 review? **Yes**

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, 173.391, 173.40, 173.402**

5. Statute(s) the rule, as filed, amplifies or implements: **173.39, 173.391, 173.402**

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

ODA is proposing to replace rule 173-39-02.14 of the Administrative Code with a new rule 173-39-02.14 of the Administrative Code. In doing so, ODA has three goals:

GOAL 1: To comply with the five-year review required under section 119.032 of the Revised Code.

GOAL 2: To adopt rule on the home-delivered meal service that is substantially similar to the requirements for providing a home-delivered meal service under the

rules of Department of Job and Family Services (JFS) and the Department of Developmental Disabilities (DoDD). (JFS adopted the comparable rule 5101:3-46-04 of the Administrative Code on October 25, 2010.)

a. The goal is to provide consistent requirements for providers among the three agencies' Medicaid waiver programs. The rule content was developed by a consolidation exploration team of the Executive Medicaid Management Agency (EMMA), which Governor Strickland created with Executive Order 2007-36S. ODA, JFS, and DoDD were part of that team.

b. Certainly, there are differences in the rules each agency will propose, but the content is substantially similar. An exception is that ODA allows providers to deliver milk, bread, and butter at once to a consumer to whom it delivers meals throughout the week if the consumer's service plan authorizes the milk, bread, or butter. This will enable case managers to help consumers with arthritis by authorizing the delivery of a pint or half-gallon of milk that the arthritic consumer can open, but not the single-serving milk carton that they cannot or a stick of butter that the arthritic consumer can use, but not the single-serving butter packet that they cannot open.

c. One noticeable, but insubstantial, difference is that ODA's regulations on the service appear in a rule that regulates just one service and follows the format of other rules that ODA has proposed since Executive Order 2008-04S (see goal #3 below), while JFS' regulations on the service appear in a rule that regulates several services and follows the format of other JFS rules. (See paragraph (D) of JFS' newly-adopted rule 5101:3-46-04 of the Administrative Code.)

GOAL 3: To 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.

a. ODA complies with the executive order by:

i. Complying with Chapter 5 of the Legislative Service Commission's "Rule Drafting Manual," as found on [http://www.lsc.state.oh.us/rules/rdm06\\_06.pdf](http://www.lsc.state.oh.us/rules/rdm06_06.pdf)

ii. Incorporating recommendations from "Advanced Legal Drafting" by Bryan A. Garner (Dallas: LawProse, Inc. (c) 2007)

iii. Incorporating recommendations from "Plain English Writing Tips," as found on [http://business.ohio.gov/docs/RegReform\\_PlainEnglishWritingTips.pdf](http://business.ohio.gov/docs/RegReform_PlainEnglishWritingTips.pdf).

b. The result is language that:

i. Generously uses descriptive sub-headings (e.g., "Planning," "Preparation and safety," "Delivery," "Units and rates," etc.) and divides topics in rules to fit under

those sub-headings in order to enable readers to thumb through the rule

- ii. Begins with general material in a, somewhat, chronological order (e.g., planning; preparation and safety; and delivery) and ends with specific material that appeals to fewer readers (e.g., provider qualifications, units of service)
- iii. Uses the active voice in the present tense, not the passive voice (e.g., "shall be") and not the future tense (e.g., "will")
- iv. Uses the singular, unless the plural is necessary
- v. Replaces legalese with plain-English words

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 regulates home-delivered meal services.

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:

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

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

On August 27, 2010, ODA refiled this rule proposed for rescission so that the rule would move in tandem with the proposed new rule that ODA is also refiling today.

On November 15, 2010, ODA refiled this rule proposed for rescission so that the rule would move in tandem with the proposed new rule that ODA is also refiling today.

12. 119.032 Rule Review Date: **6/15/2010**

(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 rescission of this rule 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-490-423 Long-Term Care Budget - State.

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

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

4U90-490-602 PASSPORT Fund.

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:

ODA does estimates that the propsed rescission of this rule will create no cost of compliance to any directly-affected person.

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**