

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

Agency Name

Division

Tom Simmons

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173-39-02.18

Rule Number

AMENDMENT

TYPE of rule filing

Rule Title/Tag Line

Non-medical transportation 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**

5. Statute(s) the rule, as filed, amplifies or implements: **173.39, 173.391, 173.431**

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

ODA is proposing to amend this rule. In doing so, ODA has four goals:

1. To exempt busses from ODA's annual vehicle inspection because the Ohio Highway Patrol already requires the busses to undergo their annual vehicle inspection. This complies with Governor Strickland's Executive Order 2008-04S: "Implementing Common Sense Business Regulation," to eliminate unnecessary regulations.

2. To allow providers to deem drivers who are certified EMTs or who have completed EMT-training as ones who comply with all or most of the driver

qualifications under this rule. (This issue was raised during the public-comment period.)

3. To replace the language in the rules on "maintaining documentation" with "retaining records" because the term-of-art is "records retention," not "document maintenance." ODA also added references in the rules to the records-retention requirements in other rules. This change should not present any new requirements to a provider.

4. To reformat certain sections of the rule. As ODA continues to work with other agencies that participate in the consolidation exploration team of the Executive Medicaid Management Agency (EMMA), which Governor Strickland created with Executive Order 2007-36S, we see the benefit of formatting our rules in the same way, rule after rule, and also presenting some topics clearly. These changes should not present any new requirements to a provider. The changes are:

a. Although every provider under a provider agreement is already subject to rule 173-3-06 of the Administrative Code and every provider under a provider certification program is already subject to rule 173-39-02 of the Administrative Code, each rule now mentions that the requirements of the transportation services are in addition to the requirements of rules 173-3-06 or 173-39-02 of the Administrative Code.

b. The language that says what type of provider qualifies to provide the service now appears under the sub-heading "provider qualifications," which occurs just before the language on driver qualifications.

c. The language on collecting records that appeared under the sub-heading "records" in each rule now appears later in the rule under the sub-heading "service verification." This rule also states, under "service verification," that the provider may collect and retain records electronically, including the signature. The wording is the standard language that has come from the consolidation exploration team of the Executive Medicaid Management Agency (EMMA).

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 the transportation service for ODA's non-Medicaid-funded programs.

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1. To exempt buses from ODA's annual vehicle inspection because the Ohio Highway Patrol already requires the busses to undergo their annual vehicle

inspection. This complies with Governor Strickland's Executive Order 2008-04S: "Implementing Common Sense Business Regulation," to eliminate unnecessary regulations.

2. To allow providers to deem drivers who are certified EMTs or who have completed EMT-training as ones who comply with all or most of the driver qualifications under this rule. (This issue was raised during the public-comment period.)

3. To replace the language in the rules on "maintaining documentation" with "retaining records" because the term-of-art is "records retention," not "document maintenance." ODA also added references in the rules to the records-retention requirements in other rules. This change should not present any new requirements to a provider.

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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 June 15, 2010, ODA revised this rule to replace "form ODA0008" with "form ODA0008A or form ODA0008B" and to update this RSFA accordingly.

On June 16, 2010, ODA revised this rule to restore "form ODA0008," to replace "or form ODA0008B" with "or form ODA0010," and to update this RSFA accordingly.

Again, on June 16, 2010, ODA revised this rule to replace "ODA0010" with "ODA0011" and to update this RSFA accordingly.

On July 21, 2010, ODA refiled this rule to:

1. Replace "(C)(5)" in paragraph (C)(4)(a)(viii) of the rule with "(C)(6)."
2. To insert two new paragraphs, numbered paragraphs (C)(4)(c)(i) and (C)(4)(c)(ii) of the rule, that creates the same exception found in rules 173-3-06.6 and 173-39-02.13 of the Administrative Code. Those paragraphs say, "Any driver who holds a current, valid EMT-basic, EMT-intermediate, or EMT-paramedic certification from the Ohio state board of emergency medical services is deemed to comply with paragraphs (C)(4)(a) and (C)(4)(b) of this rule" and "Any driver who successfully passed the Ohio state board of emergency medical service's curriculum for an EMT-basic, EMT-intermediate, or EMT-paramedic, but does not hold a current, valid EMT-basic, EMT-intermediate, or EMT-paramedic certification from the Ohio state board of emergency medical services is deemed to comply with paragraphs (C)(4)(a) and (C)(4)(b) of this rule, except the driver shall complete the

defensive-driving course required under paragraph (C)(4)(b)(i) of the rule every three years."

3. To revise this RSFA.

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 anticipates that the proposed adoption of this new rule will have no impact upon the biennial budget established for ODA by the Ohio General Assembly.

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 estimates that there is no cost of compliance to any directly-affected person as a result of the proposed amendment of this rule. On the other hand, a provider who hires certified EMTs or trained EMTs should find cost savings because ODA is proposing to no longer require such a provide to provide additional trainign before transporting consumers.

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**