

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

Agency Name

Division

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173-39-02.18

Rule Number

NEW

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? **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, 173.391**

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:

ODA is proposing two other new transportation rules (rule 173-3-06.6 and 173-39-02.13 of the Administrative Code). To make compliance easier, ODA is taking this opportunity to alter the language of this rule so that it better resembles proposed new rules 173-3-06.6 and 173-39-02.13, which have fewer vehicle inspections mentioned in the rule.

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 regulates a non-medical transportation service for a certified provider under a Medicaid-funded program. Specifically, the rule:

1. Defines the term "non-medical transportation service";
2. Itemizes the minimum requirements for a non-medical transportation service; and,
3. Establishes the unit of service for a non-medical transportation service.

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 January 5, 2009, ODA refiled this proposed new rule to:

1. Add "(See rule 173-39-02.4 of the Administrative Code regarding a escort service or transportation to community service, activity, or resource provided by a consumer-directed individual provider as part of a home-care attendant service.)" to the end of paragraph (C)(1)(a) of the rule so that a consumer-directed individual provider who reads this rule will not suspect that this rule prohibits him/her from

providing the escort/transportation component of a home-care attendant service.

2. Replace "The provider shall possess a back-up plan for providing the service when a driver of a vehicle is unavailable" in paragraph (C)(1)(b) of the rule with "The agency provider shall possess a back-up plan for providing the service when a driver or vehicle is unavailable. The non-agency provider shall possess a back-up plan for providing the service when he/she or his/her vehicle is unavailable."

3. Insert "the driver's name," before "and the driver's signature" in paragraph (C)(1)(d) of the rule.

4. Replace the colon at the end of paragraph (C)(1)(d) of the rule with a period.

5. Replace "preventative maintenance schedule" in paragraph (C)(2)(a) of the rule with "preventative-maintenance schedule."

6. Change the URL in paragraphs (C)(2)(a)(i) and (C)(2)(a)(ii) of the rule to "<http://www.aging.ohio.gov/information/rules/forms.aspx>" because, before ODA adopts this rule, It will have launched its new web site and that will be the new URL.

7. Replace "(C)(2)(a)" in paragraph (C)(2)(b) with "(C)(2)(a)(i)"

8. Insert "drivers" before "home state" in paragraph (C)(3)(a)(i) of the rule.

9. Insert "medic first aid international, American safety and health institute" after "the national safety council" in paragraph (C)(3)(a)(iv) of the rule.

10. Replace "Regular" with "Pre-Trip" in paragraph (C)(3)(a)(vii) of the rule.

11. Replace "(C)(2)(b)" with "(C)(2)(a)(ii)" in paragraph (C)(3)(a)(vii) of the rule.

12. Delete "the requirement to help the consumer to safely transfer between the pick-up point and the vehicle, to safely enter and exit the vehicle, and to safely transfer between the vehicle and the destination point, under" as it occurred in paragraph (C)(3)(a)(vi) of the rule in the phrase "Possess the ability to comply with the requirement to help the consumer to safely transfer between the pick-up point and the vehicle, to safely enter and exit the vehicle, and to safely transfer between the vehicle and the destination point, under paragraph (C)(1)(c) of this rule; and,"

13. Replace "passenger assistance training" with "passenger-assistance training" in paragraph (C)(3)(b)(ii) of the rule.

14. Replace "comply that paragraph" in paragraph (C)(3)(c)(ii) of the rule with "comply with paragraph."

15. Replace "defensive driving course" in paragraph (C)(3)(c)(ii) of the rule with "defensive-driving course."

16. Update 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 estimates that the adoption of this proposed new rule will have no impact upon the biennial budget established for ODA by the Ohio General Assembly in Am. Sub. H. B. No. 119 (127th G. A.)

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

GRF-490-403 PASSPORT

3C4-490-607 PASSPORT

4J4-490-610 PASSPORT/Residential State Supplement

4U9-490-602 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 will be no cost of compliance to any consumer as a result of the adoption of this proposed new rule because a consumer who receives this

service does so free of charge.

ODA estimates that a provider who provides a non-medical transportation service may experience up-front costs as the result of complying with this rule. However, in the long run, the provider should not experience an costs because he/she will be reimbursed for providing the service.

The amount that a provider is reimbursed for a service is negotiable since each trip is different than every other trip. For example, one consumer may need a round trip to a grocery store that is only one mile away while another consumer living in the Appalachian region may require a lengthy trip to a grocery store that is ten miles away. The maximum rates allowable for a one-way trip or a round trip are listed in rule 5101:3-1-06.1 of the Administrative Code.

It is expected that the reimbursement given to a provider of this service covers the entire cost of performing the service, including gasoline, vehicle maintenance, vehicle inspection, employment of non-drivers (e.g., a dispatcher), and employment of drivers, which includes the cost of performing a criminal records check on each driver under section 173.394 of the Revised Code and under rules 173-41-01 and 173-39-02 of the Administrative Code, the cost of performing a drug test or tests on each driver, and the cost of training each driver.

Of course, no person is mandated to become a certified provider of a Medicaid-funded program who performs the service. A person willingly agree to become a provider of this service. Therefore, providers who may provide a transportation service, but have no intention of transporting consumers through this service, will not incur any cost of compliance as a result of the proposed adoption of this new rule.

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.

ODA estimates that a county, municipality, or township that provides a non-medical transportation service may experience up-front costs as the result of complying with this rule. However, in the long run, the county, municipality, or township that provides this service should not experience any costs because it will be reimbursed for providing the service.

The amount that a county, municipality, or township is reimbursed for a service is negotiable since each trip is different than every other trip. For example, one consumer may need a round trip to a grocery store that is only one mile away while another consumer living in the Appalachian region may require a lengthy trip to a grocery store that is ten miles away. The maximum rates allowable for a one-way trip or a round trip are listed in rule 5101:3-1-06.1 of the Administrative Code.

It is expected that the reimbursement given to a county, municipality, or township that provides the service covers the entire cost of performing the service, including gasoline, vehicle maintenance, vehicle inspection, employment of non-drivers (e.g., a dispatcher), and employment of drivers, which includes the cost of performing a criminal records check on each driver under section 173.394 of the Revised Code and rules 173-41-01 and 173-39-02 of the Administrative Code, the cost of performing a drug test or tests on each driver, and the cost of training each driver.

Of course, no county, municipality, or township is mandated to become a certified provider of a non-medical transportation service. A county, municipality, or township must willingly agree to become a provider. Therefore, counties, municipalities, or townships who may provide a non-medical transportation service, but have no intention of transporting consumers through this proposed new PASSPORT service, will not incur any cost of compliance with this rule.

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 see the above remarks.

(a) Personnel Costs

Please see the above remarks.

(b) New Equipment or Other Capital Costs

Please see the above remarks.

(c) Operating Costs

Please see the above remarks.

(d) Any Indirect Central Service Costs

Please see the above remarks.

(e) Other Costs

Please see the above remarks.

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.

Because a county, municipality, or township would be reimbursed for the costs incurred for providing this service, there should be no need to acquire new revenue to comply with this proposed new rule.

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

This rule should have a slightly-positive impact upon economic development, because it does no harm to economic development; yet, it promotes continued home ownership and is, in comparison to institutionalization (e.g., a Medicaid-funded nursing home), a cost-effective use of taxpayer dollars that lessens the need to divert more funds from economic development to increase funding for Medicaid-funded institutionalization programs in the future.