

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

Agency Name

Division

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173-39-02.1

Rule Number

NEW

TYPE of rule filing

Rule Title/Tag Line

Adult day 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 Adult Day 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:

Amended paragraph (D)(2) by replacing the reference to "paragraph (C) of this rule" with a reference to "paragraphs (C)(2)(f) to (C)(2)(h) of this rule."

Amended paragraph (F) by inserting the words "must be" between the words "transportation" and "furnished"; replacing the coma after the word "contract" with a period; and replacing the words "must be furnished by a transportation provider that meets" with the words "The transportation provider must meet".

Amended paragraph (G)(8) by deleting the words "wheelchair accessible"

immediately after the words "at least one", and immediately before the words "working toilet"; and inserting the words ", of which one toilet must be wheelchair accessible" immediately after the word "participant" and immediately before the period at the end of the paragraph.

Amended paragraph (G)(13) by deleting the words "or initials, if unable to sign" immediately after the words "consumer's signature" and immediately before the words "and the signature"; and adding a second sentence to the paragraph that reads "If a consumer is unable to sign, this must be noted in the care plan and the consumer may use initials or other mark."

Amended paragraph (H)(2)(c) by adding the words "or a physician," immediately following the words "under the direction of a RN" and immediately before the words "that includes, but is not limited to ..."

Amended paragraph (H)(3) by replacing the words "licensed health care professional" with the words "RN, LPN, or physician".

Amended paragraph (H)(5) by inserting the word "consumer" between the words "maintain a" and "record of each"; and deleting the words "service related consumer contact and each".

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 provider, the impact of compliance with the attached rule is expected to be cost neutral for local governments.

The attached rule outlines service specifications for providers wishing to participate in programs administered by ODA. Local governments wishing to be certified to provide the services described in the attached rule will necessarily incur costs to become certified. Participation in programs administered by the Department, however, is voluntary, and providers are reimbursed for the costs they incur to provide services at a rate negotiated in advance between the provider and ODA's designee. Local governments that believe the costs of participation with the rule are too high are not required to become certified providers.

The department is unable to estimate the costs that local governments might incur to become certified providers because the costs will vary based 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 discussion 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.

ODA is unable to determine the ability of local governments to pay for the requirements imposed by the rule, but compliance with the rule is only required of those local governments seeking certification to provide the services described in the attached rule.

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

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