

## Rule Summary and Fiscal Analysis

### Part A - General Questions

**Rule Number:** 173-39-02.21

**Rule Type:** Rescission

**Rule Title/Tagline:** Scheduling choices home care attendant and personal care services.

**Agency Name:** Department of Aging

**Division:**

**Address:** 246 N. High St. 1st floor Columbus OH 43215-2046

**Contact:** Tom Simmons

**Email:** tsimmons@age.ohio.gov **Phone:** 614-728-2548

#### I. Rule Summary

1. **Is this a five year rule review?** Yes
  - A. **What is the rule's five year review date?** 1/31/2019
2. **Is this rule the result of recent legislation?** No
3. **What statute is this rule being promulgated under?** 119.03
4. **What statute(s) grant rule writing authority?** 173.01, 173.02, 173.391, 173.52, 173.522
5. **What statute(s) does the rule implement or amplify?** 173.52, 173.522; 42 CFR 441.352, 173.39, 173.391
6. **What are the reasons for proposing the rule?**

ODA reviewed this rule, as required at least once before each its 5-year deadline. ODA now proposes to make non-substantive updates to it. Due to the volume of non-substantive amendments, ODA proposes to do so by rescinding this rule and proposing a new rule of the same number in its place.

7. **Summarize the rule's content, and if this is an amended rule, also summarize the rule's changes.**

This rule establishes scheduling requirements for ODA-certified providers of personal care and choices home care attendant services. ODA proposes to rescind this rule and to adopt a new rule in its place.

8. **Does the rule incorporate material by reference? No**
9. **If the rule incorporates material by reference and the agency claims the material is exempt pursuant to R.C. 121.71 to 121.76, please explain the basis for the exemption and how an individual can find the referenced material.**

*Not Applicable*

10. **If revising or re-filing the rule, please indicate the changes made in the revised or re-filed version of the rule.**

*Not Applicable*

## **II. Fiscal Analysis**

11. **As a result of this proposed rule, please estimate the increase / decrease in revenues or expenditures affecting this agency, or the state generally, in the current biennium or future years. If the proposed rule is likely to have a different fiscal effect in future years, please describe the expected difference and operation.**

This will have no impact on revenues or expenditures.

\$0.00

ODA estimates that the rescission of this rule will have no impact upon the biennial budget the Ohio General Assembly established for ODA in H.B. 49 (132nd G.A.).

12. **What are the estimated costs of compliance for all persons and/or organizations directly affected by the rule?**

ODA estimates that the proposed rescission of this rule will create no cost of compliance for any person or organization directly affected by the rule. For more information, please review ODA's responses to BIA questions #14 and #15.

13. **Does the rule increase local government costs? (If yes, you must complete an RSFA Part B). No**
14. **Does the rule regulate environmental protection? (If yes, you must complete an RSFA Part C). No**

### **III. Common Sense Initiative (CSI) Questions**

**15. Was this rule filed with the Common Sense Initiative Office? Yes**

**16. Does this rule have an adverse impact on business? Yes**

**A. Does this rule require a license, permit, or any other prior authorization to engage in or operate a line of business? No**

This rule prohibits ODA-certified agency providers from accepting referrals if they do not have adequate staffing to provide the personal care. This rule also prohibits ODA-certified participant-directed providers, who are employees of the individuals, from providing services to more than 5 individuals per week, from working more than 40 hours per week for any single individual (except in emergencies), and from working more than 56 hours per week for 2-5 individuals.

For more information, please review ODA's responses to BIA questions #14 and #15.

**B. Does this rule impose a criminal penalty, a civil penalty, or another sanction, or create a cause of action, for failure to comply with its terms? No**

(173-39-05 establishes the penalties for non-compliance with OAC Chapter 173-39.)

**C. Does this rule require specific expenditures or the report of information as a condition of compliance? No**