

Rule Summary and Fiscal Analysis

Part A - General Questions

Rule Number: 173-39-02.21

Rule Type: New

Rule Title/Tagline: ODA provider certification: scheduling personal care aides and participant-directed providers.

Agency Name: Department of Aging

Division:

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I. Rule Summary

1. Is this a five year rule review? No
 - A. What is the rule's five year review date?
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? 173.522, 173.52, 173.391, 173.02, 173.01
5. What statute(s) does the rule implement or amplify? 173.39, 173.522; 42 C.F.R. 441.352, 173.52, 173.391
6. What are the reasons for proposing the rule?

ODA reviewed the current version of this rule, as required at least once before each its 5-year deadline. ODA proposes to adopt this new rule to replace the current version.
7. Summarize the rule's content, and if this is an amended rule, also summarize the rule's changes.

This proposed new rule will establish scheduling requirements for ODA-certified providers of personal care and choices home care attendant services. Compared to the current rule, the proposed new rule contains updated terminology and the following clarified language on agency scheduling. For more information, please review ODA's response to BIA question #1.

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.**

On February 1, 2019, ODA made a 2nd revised filing to insert into paragraph (B)(3) of this rule the word "individuals" between "the number of" and "who employ the provider." (Our first attempt was not successful.)

02/01/2019 On February 1, 2019, ODA made a revised filing to insert into paragraph (B)(3) of this rule the word "individuals" between "the number of" and "who employ the provider."

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 adoption of this new 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 differences between this new rule and the current rule of the same number 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?** Yes

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 regards 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