

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

Agency Name

Division

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173-39-02.4

Rule Number

AMENDMENT

TYPE of rule filing

Rule Title/Tag Line

Choices home care attendant service (CHCAS).**RULE SUMMARY**

1. Is the rule being filed for five year review (FYR)? **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: **173.01, 173.02, 173.391, 173.52, 173.522**
5. Statute(s) the rule, as filed, amplifies or implements: **173.39, 173.52, 173.522**
6. State the reason(s) for proposing (i.e., why are you filing,) this rule:

ODA's primary change to propose for this rule is to replace the requirements for auto insurance with new requirements that could save funds for many participant-directed providers. The current rule requires providers to carry auto liability insurance and collision insurance--even for providers that don't drive and even if the providers own older, used cars for which one wouldn't normally buy collision coverage.

ODA is also taking this opportunity to review the entire rule, which ODA must do before each rule's deadline, which must be set no farther into the future than 5 years from the time that ODA most-recently reviewed 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:

Rule 173-39-02.4 of the Administrative Code regulates the choices home care attendant service when it's provided by ODA-certified providers. The service is offered through both the state-funded and Medicaid-funded components of the PASSPORT Program.

Again, ODA's primary change to propose for this rule is to replace the requirements for auto insurance with new requirements that could save funds for many participant-directed providers. The current rule requires providers to carry auto liability insurance and collision insurance--even for providers that don't drive and even if the providers own older, used cars for which one wouldn't normally buy collision coverage.

In the proposed amendments to the rule, ODA inserts new language that would only require insurance if the provider transports the individual and that no longer requires collision insurance.

Additionally, ODA proposes to make the following non-substantive amendments that would not change the requirements in the rule nor increase any adverse impact of the rule:

1. As ODA proposes to do for other rules that it amends in Chapter 173-39 of the Administrative Code, ODA proposes to begin the rule's title with "ODA provider certification."

2. ODA proposes to replace all occurrences of "consumer-directed provider" with "participant-directed provider."

3. ODA proposes to replace all occurrences of "consumer" with "with individual," except when "consumer" is part of "consumer-directed provider."

4. ODA proposes to delete the records-retention requirements in paragraph (B)(7)(c) of the rule because they are duplicative of records-retention requirements in rule 173-39-02 of the Administrative Code.

5. ODA proposes to indicate that the rates are subject to rule 5160-31-07 of the Administrative Code. This would not change payments to providers because providers are already subject to rule 5160-31-07 of the Administrative Code. The proposed change would add a helpful cross reference to each rule.

6. ODA proposes to make a number of minor non-substantive amendments.

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:

The rule requires providers to complete forms ODA1042 and ODA1043. The public may access the forms on ODA's website free of charge at any time. (<http://aging.ohio.gov/information/rules/forms.aspx>)

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:

The rule requires providers to complete form ODA1042 and ODA1043. The public may access the forms on ODA's website free of charge at any time. (<http://aging.ohio.gov/information/rules/forms.aspx>)

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. If applicable, indicate each specific paragraph of the rule that has been modified:

Not Applicable.

12. Five Year Review (FYR) Date: **8/7/2015**

(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 ODA's proposed amendment of this rule would create no impact upon the biennial budget that the Ohio General Assembly established for ODA.

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

GRF-651-525 Medicaid/Health Care Services.

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 the adoption of the proposed amendments poses no cost of compliance to any directly-affected person. For providers who do not transport consumers, the proposed amendment would produce a potential cost savings because no driver's license or auto liability insurance would be required. For providers who transport consumers, the proposed amendment would produce a potential cost savings because ODA would no longer require auto collision insurance.

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**

S.B. 2 (129th General Assembly) Questions

18. Has this rule been filed with the Common Sense Initiative Office pursuant to R.C. 121.82? **Yes**

19. Specific to this rule, answer the following:

A.) Does this rule require a license, permit, or any other prior authorization to engage in or operate a line of business? **Yes**

In order to be an ODA-certified provider of the choices home care attendant service, a provider must meet the requirements of this rule.

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**

C.) Does this rule require specific expenditures or the report of information as a condition of compliance? **Yes**

If a provider transports a consumer, the provider would be required to provide proof of a driver's license and auto liability insurance.

The provider must show evidence that he or she has completed the training requirements, which includes completing forms ODA1042 and ODA1043.

The provider must also verify that the services for which he or she bills were provided. In this task, the provider is assisted by a financial management service.

Please see the BIA for more information.