

Rule Summary and Fiscal Analysis

Part A - General Questions

Rule Number: 173-39-02.4

Rule Type: Rescission

Rule Title/Tagline: ODA provider certification: choices home care attendant service (CHCAS).

Agency Name: Department of Aging

Division:

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I. Rule Summary

1. **Is this a five year rule review?** Yes
 - A. **What is the rule's five year review date?** 4/14/2023
2. **Is this rule the result of recent legislation?** Yes
 - A. **If so, what is the bill number, General Assembly and Sponsor?** SB 9 - 134 - McColley, Roegner
3. **What statute is this rule being promulgated under?** 119.03
4. **What statute(s) grant rule writing authority?** 121.07, 173.01, 173.02, 173.391, 173.52, 173.522
5. **What statute(s) does the rule implement or amplify?** 173.39, 173.391, 173.52, 173.522; 42 CFR 441.352
6. **Does the rule implement a federal law or rule in a manner that is more stringent or burdensome than the federal law or regulation requires?** No
 - A. **If so, what is the citation to the federal law or rule?** Not Applicable
7. **What are the reasons for proposing the rule?**

Each rule in Chapter 173-39 primarily exists to comply with section 173.391 of the Revised Code, which requires ODA to adopt rules to establish certification requirements and standards. This rule exists to establish the specific requirements to become, and to remain, an ODA-certified provider of the choices home care attendant service. This rule also exists to comply with 42 CFR 441.352, which requires ODA to provide satisfactory assurance to CMS that ODA has implemented certification requirements for providers as a condition to the authorization of the PASSPORT Program.

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

This rule establishes the specific requirements to become, and to remain, an ODA-certified provider of the choices home care attendant service.

- 9. Does the rule incorporate material by reference? No**
- 10. If the rule incorporates material by reference and the agency claims the material is exempt pursuant to R.C. 121.75, please explain the basis for the exemption and how an individual can find the referenced material.**

Not Applicable

- 11. 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

- 12. Please estimate the increase / decrease in the agency's revenues or expenditures in the current biennium due to this rule.**

This will have no impact on revenues or expenditures.

\$0.00

Not Applicable

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

The cost of compliance to an ODA-certified participant-directed provider is the cost of providing the service according to this rule (e.g., availability, qualifications to provide the service, continuing education/in-service training).

14. **Does the rule increase local government costs? (If yes, you must complete an RSFA Part B).** No
15. **Does the rule regulate environmental protection? (If yes, you must complete an RSFA Part C).** No
16. **If the rule imposes a regulation fee, explain how the fee directly relates to your agency's cost in regulating the individual or business.**

Not Applicable

III. Common Sense Initiative (CSI) Questions

17. **Was this rule filed with the Common Sense Initiative Office?** Yes
18. **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

Providers voluntarily apply for ODA certification. Certification is not required to provide a service unless a provider wants a government program that requires certification (e.g., the PASSPORT Program) to pay the provider. Please review the BIA for additional information.

- 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

See section 173.391 of the Revised Code and rule 173-39-05 of the Administrative Code.

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

This rule requires providers to complete person-centered training if the individual and ODA's designee consider the training necessary to meet the individual's needs. This rule also requires providers to complete annual continuing education and to retain records. Other requirements in this rule relate to the provision of the service itself.

- D. Is it likely that the rule will directly reduce the revenue or increase the expenses of the lines of business of which it will apply or applies? No

IV. Regulatory Restriction Requirements under S.B. 9. Note: This section only applies to agencies described in R.C. 121.95(A).

19. Are you adding a new or removing an existing regulatory restriction as defined in R.C. 121.95? Yes

A. How many new regulatory restrictions do you propose adding to this rule? 0

B. How many existing regulatory restrictions do you propose removing from this rule? 17

1. (B)(4)(a)(ii) The provider shall complete an application to become an ODA-certified participant-directed individual provider.

2. (B)(4)(a)(iii) At the request of an individual, the provider SHALL participate in an interview with the individual before providing the first episode of service to the individual.

3. (B)(4)(a)(iv) The provider SHALL be at least eighteen years of age.

4. (B)(4)(a)(v) The provider SHALL have a valid social security number and at least one of the following current, valid, government-issued, photographic identification cards:

5. (B)(4)(a)(vi) The provider SHALL read, write, and understand English at a level which enables the provider to comply with this rule and rule 173-39-02 of the Administrative Code.

6. (B)(4)(a)(vii) The provider shall be able to effectively communicate with the individual.

7. (B)(4)(a)(viii)(a) A provider SHALL only transport the individual in a vehicle for which ODA's designee has verified is insured.

8. (B)(4)(b)(i)(a) Training on this competency SHALL include the following topics:

9. (B)(4)(b)(ii) Beginning on July 1, 2014, every provider an individual hired on or after July 1, 2014 SHALL successfully complete training in the core competencies ODA listed under paragraph (B)(4)(b)(i) of this rule before providing the first episode of service to an individual.

10. (B)(4)(b)(iii) Beginning on September 1, 2014, every provider an individual hired before July 1, 2014 SHALL successfully complete training in the core competencies ODA listed under paragraph (B)(4)(b)(i) of this rule before continuing to provide this service to an individual

11. (B)(4)(c) Each year, the provider SHALL successfully complete at least eight hours of continuing education before the provider's anniversary date of certification as an ODA-certified participant-directed provider or the agency employee's anniversary date of hire.

12. (B)(4)(e)(i) The individual SHALL provide ODA with, and retain a copy of a completed and signed form ODA1042 and evidence of successful completion of the training listed on the form to verify that the provider complied with the initial training requirements in this rule and rule 173-42-06 of the Administrative Code

13. (B)(4)(e)(ii) The individual SHALL retain a completed and signed form ODA1043 to verify the provider complied with the continuing education requirements in this rule and rule 173-42-06 of the Administrative Code

14. (B)(4)(e)(ii) The individual SHALL also retain a copy of each certificate of completion and course syllabus verifying the provider complied with this rule's continuing education requirements.

15. (B)(5)(a) Until rule 5160-1-40 of the Administrative Code requires a provider of this service to use EVV, the provider SHALL complete the time sheets the individual provides through he financial management service,...

16. (B)(5)(a) ..., which SHALL include the date of service, the individual's name, a unique identifier of the individual, the provider's name, the provider's arrival and departure times, and a unique identifier of the provider to verify the accuracy of the record.

17. (B)(5)(c) For each episode of service, the provider SHALL complete the service task sheet with a description of the activities the provider provided and verify the accuracy of the record with a unique identifier of the provider and a unique identifier of the individual.

- C. If you are not removing existing regulatory restrictions from this rule, please list the rule number(s) from which you are removing restrictions.**
- D. Please justify the adoption of the new regulatory restriction(s).**

Not Applicable