

Rule Summary and Fiscal Analysis

Part A - General Questions

Rule Number: 173-39-02.7

Rule Type: Amendment

Rule Title/Tagline: ODA provider certification: home medical equipment and supplies.

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?** 10/26/2020
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?** 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 C.F.R. 441.352
6. **What are the reasons for proposing the rule?**

ODA proposes to amend this rule as part of a larger rule package of rules from Chapter 173-39 of the Administrative Code that implements amendments related to the COVID-19 state of emergency and other matters.
7. **Summarize the rule's content, and if this is an amended rule, also summarize the rule's changes.**

This rule establishes the requirements for any provider of home medical equipment and supplies who wants to be certified by ODA.

On June 11, 2020, ODA adopted an emergency amendment to temporarily replace the requirement for a provider using a common carrier to replace any home medical equipment that was lost or stolen between the time of delivery and receipt by the individual to a requirement for every provider to do the same. Through this rule package, ODA proposes to adopt this amendment on an ongoing basis.

On June 11, 2020, ODA also adopted an emergency amendment to temporarily require providers to contact the individual by telephone at least once per month to alert the individual to any delivery left outside the door to their home. Through this rule package, ODA proposes to adopt this amendment on an ongoing basis.

On June 11, 2020, ODA adopted one or more emergency amendment(s) into each of these rules to temporarily allow providers to decide whether to collect a unique identifier of the individual (e.g., a handwritten signature) to verify that home medical equipment or supplies were delivered. This has been allowing the provider and individual to maintain social distancing. Through this rule package, ODA proposes to amend the verification requirements to allow providers to decide whether, during any state of emergency declared by the governor, to collect a unique identifier of the individual to verify deliveries.

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. 121.75, 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.**

ODA made a revised filing of this rule to replace "Wednesday" with "Monday" on the public hearing notice. In doing so, ODA did not revise the rule.

II. Fiscal Analysis

11. **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

ODA's proposed amendment of this rule will have no impact upon the biennial budget that the Ohio General Assembly established for ODA in H.B. 166 (133rd G.A.).

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

ODA's proposed amendment of this rule will create no new cost of compliance to the providers affected by this rule. Instead, it will give providers flexibility to maintain social distancing. For more information, please review the business impact analysis.

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

15. 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

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

17. 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

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

This rule requires providers to comply with requirements that are common to providers of home medical equipment and supplies, including verifying that they provided the home medical equipment or supplies for which they bill ODA. For more information, please review the business impact analysis.

- 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 Restrictions (This section only applies to agencies indicated in R.C. 121.95 (A))

- 18. **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?** 1

(B)(5)(c) If a provider leave a HME item outside the door of an individual's home, the provider shall contact the individual by telephone at least once per month to alert them to any delivery left outside the door to their home.

- B. **How many existing regulatory restrictions do you propose removing?** 0