

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

Agency Name

Division

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173-39-02.8

Rule Number

AMENDMENT

TYPE of rule filing

Rule Title/Tag Line

Homemaker service.**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, 173.391.**
6. State the reason(s) for proposing (i.e., why are you filing,) this rule:

ODA has conducted a 5-year review of the rule. ODA's proposed amendments will add clarity to the rule and update its terminology, but not add any requirements for ODA-certified providers. One amendment will create a new career opportunity for RNs and LPNs.
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:

OVERVIEW

OAC173-39-02.8 regulates ODA-certified providers when they provide a homemaker service to an enrollee in the PASSPORT Program or any other program requiring ODA certification.

SPECIFIC AMENDMENTS

ODA proposes to insert a paragraph that would function like a sub-heading to indicate where in the rule requirements for the provider begin. This merely adds clarity to the rule. All paragraphs occurring after this sub-heading would be indented underneath.

ODA proposes to insert a general requirement to comply with the requirements for every ODA-certified provider in OAC173-39-02. Without this amendment, ODA-certified providers would still be required to comply, but may not be aware of the need to do so.

ODA proposes to delete paragraphs duplicating requirements in OAC173-39-02 and duplicating other paragraphs in this rule.

ODA proposes to replace one or more of the following requirements in (B)(6)(a) with at least one of the following requirements.

In (B)(6)(a)(iii), ODA proposes to replace without a twenty-four-month lapse in employment as a nurse aide or home health aide to a general reference to any additional requirements under 42 CFR Part 484. This proposed change does not change how one may qualify to become a homemaker aide. Instead, it prevents ODA from restating or interpreting 42 CFR Part 484.

ODA proposes to allow a person with a current, valid license to be an RN or an LPN under the direction of an RN to qualify to be a homemaker supervisor. This will create a new career opportunity for RNs and LPNs.

ODA also proposes to make basic terminology amendments, including the following:

- * Adding "ODA provider certification" to the beginning of the rule's title.
- * Replacing uses of "consumers" with "individuals."
- * Replacing uses of "must" with "shall."
- * Replacing "capacity" with "adequate staffing levels."
- * Replacing uses of "furnish" with "provide."

* Replacing "prior to" with "before."

* Deleting "delivery" when it occurs after "service."

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:

This response left blank because filer specified online that the rule does not incorporate a text or other material by reference.

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:

This response left blank because filer specified online that the rule does not incorporate a text or other material by reference.

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: **7/10/2017**

(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 its proposed amendments to this rule would have no impact upon the biennial budget 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 there is no cost of compliance directly associated with adopting amendments to this rule. As previously stated, ODA's proposed amendments will add clarity to the rule and update its terminology, but not add any requirements for ODA-certified providers. Additionally, one amendment will create a new career opportunity for RNs and LPNs.

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

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**

The rule requires every homemaker provider wanting to be paid for providing shared living to individuals enrolled in the PASSPORT Program to be certified by ODA. (cf., ORC §§173.39, 173.391)

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**

However, if the provider fails to comply with the rule, the provider may receive disciplinary actions, which could lead to losing its certification with ODA. (Cf., ORC§173.391)

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

The rule requires providers to retain records on training and on service verification. The rule allows this to be kept electronically. ODA or its designees may request the records as part of its routine (or non-routine) monitoring of the provider's compliance.