

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

Agency Name

Division

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173-39-02

Rule Number

AMENDMENT

TYPE of rule filing

Rule Title/Tag Line

Conditions of participation.**RULE SUMMARY**

1. Is the rule being filed consistent with the requirements of the RC 119.032 review? **No**

2. Are you proposing this rule as a result of recent legislation? **Yes**

Bill Number: **HB59**General Assembly: **130**Sponsor: **Amstutz**

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, 173.54, Section 323.110 of H.B.59 (130th G.A.)**

5. Statute(s) the rule, as filed, amplifies or implements: **173.39, 173.391, 173.52, 173.53, 173.54**

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

ODA proposes to amend this rule as part of a larger rule project for Chapter 173-39 of the Administrative Code. The larger project has 5 goals: (1) create reciprocity for

the Medicaid waiver programs, (2) simplify the definitions and conditions-of-participation rules, (3) implement HB59's amendments, (4) implement training requirements for consumer-directed providers, and (5) make other updates. Please see the details under question #1 of the BIA for more information.

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:

ODA proposes to amend the rule to (1) simplify the rule, (2) implement HB59's amendments, and (3) make other updates. Please see the details under question #1 of the BIA for more information.

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 federal laws that ODA cites in the rule are available to the general public, free of charge, on www.gpo.gov.

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:

ODA determined that it was not required to incorporate the entirety of the text of the federal United States Code or Code of Federal Regulations that ODA cites in this rule because ODA properly referenced the federal laws in the rules and those federal laws are available to the general public, free of charge, on www.gpo.gov.

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. 119.032 Rule Review Date: **3/17/2016**

(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 the rule project of which this rule proposal is a part will have no impact upon the biennial budget that the Ohio General Assembly established for ODA in HB59.

ODA does not have authority to spend in excess of what the General Assembly appropriated to ODA and the General Assembly had the changes to criminal records checks in mind when they passed HB59.

Additionally, although ODA operates the programs that Chapter 173-39 of the Administrative Code regulates, H.B.153 (129th G.A.) moved the funding for the programs from an ODA budget line item to one that is now under ODM. Therefore, ODA also estimates that the rule project for which this rule proposal is a part will have no impact upon the biennial budget that the Ohio General Assembly established for ODM in HB59.

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

GRF-651-425 Medicaid Program Support--State.

GRF-651-525 Health Care/Medicaid.

3F00-651-623 Medicaid Service--Federal.

3F00-651-624 Medicaid Program Support--Federal.

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:

Please see the BIA for more information--especially the details under question #14.

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 contains the conditions of participation for a provider who seeks to become certified (or is already certified) to furnish a service to consumers who are enrolled in an ODA-administered Medicaid waiver program or a state-funded component of such a program.

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**

The last paragraph of the rule references disciplinary actions. See rules 173-39-05 and 173-39-05.1 of the Administrative Code for disciplinary and non-disciplinary actions.

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

The rule requires compliance with many conditions regarding service delivery (e.g., notifying authorities about a consumer's death, ethics policy) , consumer safety (e.g., reporting reasonable causes to suspect consumer abuse), confidentiality, provider qualifications (e.g., criminal records checks), monitoring, and reimbursement.