

## Rule Summary and Fiscal Analysis

### Part A - General Questions

**Rule Number:** 173-39-03.1

**Rule Type:** Amendment

**Rule Title/Tagline:** ODA provider certification: federal heightened scrutiny of provider settings with institutional characteristics.

**Agency Name:** Department of Aging

**Division:**

**Address:** 246 N. High St. 1st floor Columbus OH 43215-2046

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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?** 1/18/2022
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, 173.54, 173.543
5. **What statute(s) does the rule implement or amplify?** 173.39, 173.391, 173.52, 173.522, 173.54, 173.543; 42 CFR 441.352
6. **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 the requirements and standards for certified providers.
7. **Summarize the rule's content, and if this is an amended rule, also summarize the rule's changes.**

This rule establishes the processing standards for a provider's application/certification when federal heightened scrutiny of the provider's settings apply.

ODA proposes to amend this rule to replace words that imply requirements for outdated modes of communication or in-person interaction (e.g., "submit") with other words (e.g., "provide"). ODA also proposes to amend this rule to make non-substantive improvements.

- 8. Does the rule incorporate material by reference? Yes**
- 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.**

This rule refers to form ODM10204, which the general public may readily access on ODM's website (<https://medicaid.ohio.gov/static/Resources/Publications/Forms/ODM10204fillx.pdf>).

- 10. 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**

- 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

Adopting the proposed amendments to this rule will not affect the biennial budget that the Ohio General Assembly established for ODA in H.B. 110 (134th G.A.).

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

Adopting the proposed amendments to this rule will not create a cost of compliance to any directly-affected person or organization.

- 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

To become certified, a provider must apply for the certification.

Additionally, to demonstrate that a facility is not institutional, the facility may need to provide information to ODA through the application process.

- 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? No**

**A. How many new regulatory restrictions do you propose adding?**

Not Applicable

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

Not Applicable