

173-39-03.2

**ODA provider certification: changes of ownership interest or organizational structure.**

Introduction: Section 173.39 of the Revised Code prohibits ODA from paying a provider for services provided to individuals enrolled in the PASSPORT or assisted living programs unless the provider is an ODA-certified provider. ODA-certification is assigned to a provider's federal taxpayer identification number (TIN) and is not transferable. This rule ~~shall apply~~ applies in all instances where there is a change of ownership interest involving an ODA-certified provider obtaining a new TIN according to any rule adopted by the internal revenue service (IRS) or any change in organizational structure of an ODA-certified provider involving a person with an ownership or management interest, including a non-profit providers provider.

~~ODA will be unable to process a change of ownership interest or organizational structure while ODA and ODM develop a new electronic infrastructure for processing applications.~~

**(A) Requirements:**

- (1) Notification: The provider's current owner(s) shall ~~notify~~ email ODA at provider\_enrollment@age.ohio.gov with in writing an original signed statement that includes all the following information of to announce a change of ownership interest or change of organizational structure (change) no later than forty-five days before the change, unless this chapter requires notifying ODA sooner. ~~The current owner(s) shall email their written notice to ODA at "provider\_enrollment@age.ohio.gov." In the notice, the current owner(s) shall include a notarized statement including all of the following information, as applicable and to the extent it is available to the current owner(s) at the time the notice is provided to ODA. In the event information is not available at the time written notice is required, the current owner(s) shall supplement the written notice until all the following information is provided~~ By sending the statement, the owner is certifying that the following information is accurate, truthful, and complete:

- (a) Name of the provider undergoing the change.
- (b) Name of each current owner, and, if any, the name of each current owner's authorized agent.
- (c) Medicaid provider number and NPI of the provider after the change, if known. ODA considers the notice to be complete if the notice is complete except for indicating the provider's number if ODM has not yet granted the provider a number, so long as the provider provides the number to ODA as soon as it is available.

- (d) The following information about each new owner(s):
- (i) Name.
  - (ii) Date of birth.
  - (iii) Social security number.
  - (iv) Percentage of ownership or control in the provider.
  - (v) Whether each new owner has been a resident of Ohio for the five-year period immediately preceding the date of the change ~~of ownership interest.~~
- (e) Date the change takes effect, as evidence by a bill of sale or purchase contract executed by both parties.
- (f) Statement indicating whether the provider intends to seek payment from ODA for services it provides after the change.
- (g) Names and addresses of the persons to whom ODA and its designee should send correspondence regarding the change.
- (h) Any information required to show the ongoing compliance required by paragraph (B) of this rule.
- (i) Signatures of the current and new owner(s).

(2) Supplemental notification: If the provider's current owner(s) are unable to provide all the information under paragraph (A)(1) of this rule forty-five days before the change, the current owner(s) may provide as much information as possible in the notice no later than forty-five days before the change, then provide the remaining information to ODA as soon as it is available.

~~(2)~~(3) Current certification ends: If IRS rules ~~require~~ mandate a provider to obtain a new TIN, the provider's certification ends on the date the change is finalized. The relinquishment of the provider's certification means a provider ~~shall not be~~ ineligible to bill ODA after the date the change is finalized.

~~(3)~~(4) New certification required: ~~If a A~~ provider with a new TIN ~~intends to seek payment from ODA for services it provides after a change,~~ the provider shall may apply to become an ODA-certified provider according to the application process in rule 173-39-03 of the Administrative Code to seek payment from ODA for services that it provides after a change.

~~(4)~~(5) Payment for authorized services: If ODA approves an application to become an ODA-certified provider, ODA may pay for authorized services provided during a change back to the first date on which both of the following have occurred:

(a) The provider provided evidence that the change was finalized to ODA, such as a bill of sale or an executed purchase.

(b) The new owner(s) provided a complete application, as defined in rule 173-39-01 of the Administrative Code, to become an ODA-certified provider.

~~(5)~~(6) Discharging residents: After an assisted-living provider has applied for new certification from ODA during a change, neither the current nor the new owner(s) ~~shall~~ may discharge residents from the RCF for non-payment until ~~ODA makes a final determination regarding certification of the provider submits the request to HHS for its review under 42 C.F.R. 441.301(c)(5)(v).~~

(B) Compliance with HCBS settings requirements:

(1) Every provider is subject to the HCBS settings requirements in state and federal law, including rule 5160-44-01 of the Administrative Code and 42 C.F.R. Part 441, as ~~indicated~~ as a requirement to become and to remain certified in rule 173-39-02 of the Administrative Code. ~~Every provider shall maintain compliance with those requirements, from the effective date of ODA certification and thereafter to maintain ODA certification.~~

(2) For a provider that is subject to federal heightened scrutiny under rule 173-39-03.1 of the Administrative Code, the new owner(s) shall, at a minimum, implement policies; and procedures; to maintain compliance with the HCBS settings requirements under rules 173-39-02 and 5160-44-01 of the Administrative Code; and ~~any other requirements under 42 C.F.R. Part 441 at the time of the change of ownership interest and thereafter.~~ ~~When applying for ODA certification, the new owner(s) shall~~ and email a notarized signed statement demonstrating compliance with this requirement to ODA at "provider\_enrollment@age.ohio.gov."

Effective:

Five Year Review (FYR) Dates: 1/4/2024

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Certification

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Date

Promulgated Under: 119.03

Statutory Authority: 121.07, 173.01, 173.02, 173.391, 173.52, 173.522,  
173.54, 173.543

Rule Amplifies: 173.39, 173.391, 173.52, 173.522, 173.54, 173.543; 42  
C.F.R. 441.352

Prior Effective Dates: 07/01/2019, 09/16/2019, 01/10/2021, 04/04/2022