

173-39-03

ODA provider certification: applying for certification.

ODA will be unable to process any applications while ODA and ODM develop a new electronic infrastructure for processing applications. ODA will reject any incomplete applications in the current system. If ODA rejects a provider's incomplete application, the provider may reapply for certification when the new electronic infrastructure is operational.

(A) Initial steps:

- (1) To apply for certification, a provider shall ~~submit~~complete an online application on <http://www.aging.ohio.gov/>. The provider shall complete the application within ninety days after the provider starts the online application. If the provider does not complete the application within ninety days, the application shall expire.
- (2) If an individual (i.e., participant) wishes to employ (i.e., direct) a provider as his or her participant-directed provider, the individual shall interview the provider before the provider ~~submits~~completes an online application.

(B) Withdrawal:

- (1) A provider may withdraw its application at any time.
- (2) A provider that withdrew its application may later reapply for certification.

(C) Pre-certification review:

- (1) For all providers except providers of community transition provided through the home choice program under rule 5160-51-10 of the Administrative Code:
 - (a) ODA's designee shall visit the provider's business site to determine if the provider meets the applicable requirements in rule 173-39-02 of the Administrative Code and any additional requirements in this chapter regulating a service the provider is seeking certification to provide. During a state of emergency declared by the governor, a federal public health emergency, or during another time if authorized by ~~by~~ ODA, ODA's designee may conduct a desk review of the provider's business site in lieu of a visit.
 - (b) ODA's designee shall complete the review and notify ODA of its recommendation within ninety days after receiving a complete application, unless ODA approves an extended deadline.

- (c) If ODA's designee determines a provider, other than an ADS or assisted living provider, complies with all applicable requirements, it shall recommend approval of the provider's application.
 - (d) If ODA's designee determines a provider for ADS or assisted living complies with all applicable requirements, paragraph (D) of this rule applies.
 - (e) ODA's designee may conduct the review of a participant-directed provider at the individual's home and the individual must be present for the review, unless the individual agrees, in writing, to an alternate location and to not participate.
 - (f) If ODA's designee determines the provider does not comply with all applicable requirements, it shall recommend denial of the application.
- (2) For providers of community transition provided through the home choice program under rule 5160-51-10 of the Administrative Code:
- (a) ~~ODA or, at ODA's sole discretion,~~ ODA may direct its designee to conduct the pre-certification review to determine if the provider meets the applicable requirements in rules 173-39-02 and 173-39-02.17 of the Administrative Code.
 - (b) ODA or its designee shall determine whether the provider complies with all applicable requirements; and either approve or deny the provider's application pursuant to this rule.
- (D) HCBS settings requirements: HCBS shall only be provided in an individual's residence or another setting ~~that meets~~ meeting the HCBS settings requirements specified in 42 C.F.R. 441.301 and rule 5160-44-01 of the Administrative Code. ODA shall use form ODM10172, "Home and Community Based Services (HCBS) Settings Evaluation Tool" (revised, June 2021), to determine if a setting is presumed to have the qualities of an institution.
- (1) If ODA determines the setting is presumed to have the qualities of a HCBS setting, the setting does not require heightened scrutiny as described in rule 173-39-03.1 of the Administrative Code and ODA may certify the provider.
 - (2) If ODA determines the setting is presumed to have the qualities of an institution, the setting shall undergo heightened scrutiny as described in rule 173-39-03.1 of the Administrative Code.

- (3) If paragraph (D)(2) of this rule requires a setting to undergo heightened scrutiny, ODA shall defer action on the application for certification until the conclusion of the review described in rule 173-39-03.1 of the Administrative Code. ODA shall notify the provider if action on its application is deferred under this paragraph.
- (E) Final determination: ODA shall base its final determination of whether to certify a provider based on the review of the application materials and the recommendation of ODA's designee.
- (F) Approved application:
 - (1) Applications for all services except community transition provided through the home choice program under rule 5160-51-10 of the Administrative Code:
 - (a) If ODA approves the application, ODA shall notify ODA's designee for the region in which the provider is being certified to provide services.
 - (b) ODA's designee shall enter into an agreement with each provider specifying, at a minimum, the following:
 - (i) The time period during which the agreement is in effect.
 - (ii) The region for which the provider is certified.
 - (iii) The rate of payment per unit the provider is willing to accept, which shall not exceed any limits ODM establishes in rule 5160-31-07 of the Administrative Code and appendix A to rule 5160-1-06.1 of the Administrative Code for the PASSPORT program, and rule 5160-33-07 of the Administrative Code and appendix A to rule 5160-1-06.5 of the Administrative Code for the assisted living program.
 - (2) Applications for community transition provided through the home choice program under rule 5160-51-10 of the Administrative Code: If ODA approves an application to be a provider of community transition through the home choice program, ODA shall enter into an agreement with the provider or, at ODA's sole discretion, ODA may direct its designee to enter into an agreement with the provider specifying the items in paragraphs (E)(1)(b)(i) to (E)(1)(b)(iii) of this rule.
- (G) Deemed providers: ODA may deem any provider certified by ODM or the department of developmental disabilities to provide one or more services through a medicaid-waiver program as having satisfied the requirements for certification by ODA for the

same or similar services under this chapter, as determined by ODA. The effective period for a provider to be deemed an ODA-certified provider under this paragraph begins ~~on June 11, 2020~~ when the provider completes an online application followed with an email to provider enrollment@age.ohio.gov and ends if the provider cannot comply with all the requirements of Chapter 173-9 of the Administrative Code and this chapter within sixty days after initial deeming or a medicaid provider agreement is terminated, whichever occurs first.

(H) Denied application:

- (1) ODA may deny a provider's application for any of the following reasons:
 - (a) The provider made false representations, by omission or commission, on the provider's application.
 - (b) The provider made false statements, provided false information, or altered records or documents.
 - (c) The provider is prohibited from being certified pursuant to section 173.38 or 173.381 of the Revised Code, or Chapter 173-9 of the Administrative Code.
 - (d) The provider does not meet the applicable requirements in rule 173-39-02 of the Administrative Code or any requirements in this chapter regulating a service the provider is seeking certification to provide.
 - (e) Any reason permitted or required by state or federal law.
- (2) If ODA denies a provider's application, ODA shall notify the provider of its final determination and any applicable hearing rights established in section 173.391 of the Revised Code.
- (3) If ODA denies a provider's application, the provider is ineligible to reapply for certification for one year after the mailing date of ODA's final adjudication order.

Effective: 4/17/2022
Five Year Review (FYR) Dates: 1/18/2022 and 04/16/2027

CERTIFIED ELECTRONICALLY

Certification

04/07/2022

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 CFR 441.352
Prior Effective Dates: 03/31/2006, 08/30/2010, 03/17/2011, 07/01/2019, 10/10/2019, 06/11/2020 (Emer.), 01/10/2021