

173-39-03

ODA provider certification: applying for certification.**(A) Initial steps:**

- (1) ~~A person~~ To may apply for certification, ~~a provider shall complete by completing~~ an application in the provider management system, which includes electronic submission of all supporting records required as part of the application. An incomplete application expires ~~If if the provider person~~ does not complete the application within ninety days, ~~the application expires.~~
- (2) ODA shall review an application to determine if the application meets the requirements for the certification the provider is seeking.
 - (a) ODA shall initiate the process for a pre-certification review if ODA determines that a provider submitted a complete application.
 - (b) ~~If ODA determines that the supporting records do not demonstrate that the provider submitted a complete application, then ODA may request supplemental information which the provider shall email the provider to give the provider a deadline to submit supporting records that demonstrate that the provider meets the requirements for certification that is the earlier of thirty days after the email or the deadline in paragraph (A)(1) of this rule provide within five business days.~~

(B) Voluntary withdrawal of application for certification:

- (1) A provider may withdraw its application at any time before ~~enrollment with ODM unless ODA issued a notice of denial of certification~~ denies the provider's application or sends the provider's application to ODA's designee for a pre-certification review, whichever comes first.
- (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 and participant-directed providers:
 - (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 as authorized by ODA in~~

ODA's discretion, 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 sixty days after receiving a complete application to become ~~any other type of a provider~~, unless ODA approves an extended deadline at ODA's discretion.
 - (c) ODA's designee shall recommend approval or denial of the provider's application ~~if a provider other than an ADS or assisted living provider complies with all applicable requirements~~.
 - (d) Paragraph (D) of this rule applies if ODA's designee determines that an ADS or assisted living provider complies with all applicable requirements.
 - ~~(e) ODA's designee shall recommend denial of the application if the provider does not comply with all applicable requirements.~~
- (2) For providers of community transition provided through the home choice program under rule 5160-51-10 of the Administrative Code:
- (a) 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.
- (3) For participant-directed providers, ODA's designee shall conduct a pre-certification review within thirty days after receiving a complete application to determine whether 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, unless ODA approves an extended deadline.
- (D) HCBS settings requirements: For ADS or the assisted living service, A provider may qualify for certification only if the provider provides its services in the individual's home or another setting meeting is subject to the HCBS settings requirements in 42 C.F.R. 441.301 and rule 5160-44-01 of the Administrative Code, as determined by ODA on form ODM10172 (revised, June 2021), which is entitled, "Home and Community Based Services (HCBS) Settings Evaluation Tool." ODA may certify the provider if ODA determines the setting is presumed to have the qualities of a HCBS setting. The setting is subject to the heightened scrutiny described in rule 173-39-03.1

of the Administrative Code if ODA determines the setting is presumed to have the qualities of an institution.

~~(1) ODA may certify the provider if ODA determines the setting is presumed to have the qualities of a HCBS setting and the setting is not subject to the heightened scrutiny described in rule 173-39-03.1 of the Administrative Code.~~

~~(2) The setting is subject to the heightened scrutiny described in rule 173-39-03.1 of the Administrative Code if ODA determines the setting is presumed to have the qualities of an institution. ODA defers action on the application for certification until the conclusion of the heightened scrutiny. ODA shall notify the provider that action on the provider's application is deferred.~~

(E) Final determination: ODA bases its final determination of whether to certify a provider 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) When ODA approves an application, ODA notifies 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 subject to any limits ODM established in rule 5160-31-07 of the Administrative Code and the appendix to rule 5160-1-06.1 of the Administrative Code for the PASSPORT program, and rule 5160-33-07 of the Administrative Code and the appendix 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: After ODA approves an application to be a provider of community transition through the home choice

program, ODA's designee shall enter into an agreement with the provider specifying the items under paragraph (F)(1) 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 when the provider completes the deeming application process and has a provider agreement with ODA's designee, 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.~~

(G) Provider moving to Ohio from other state: Section 173.391 of the Revised Code establishes a requirement for ODA to certify an applicant moving to Ohio from another state according to Chapter 4796. of the Revised Code if the applicant meets all the following qualifications:

(1) The applicant seeks certification to provide either of the following in Ohio:

(a) One of the following services as a non-agency provider: home maintenance and chores, home medical equipment and supplies, home modification, nutritional consultation, social work or counseling, non-medical transportation, home care attendant, or waiver nursing.

(b) One of the following services as a participant-directed provider: choices home care attendant service or personal care.

(2) The applicant meets the qualifications in section 4796.03, 4796.04, or 4796.05 of the Revised Code.

(3) The provider is not disqualified from a paid direct-care position under Chapter 173-9 of the Administrative Code or section 173.38 or 173.381 of the Revised Code.

(4) The provider is not disqualified from being a provider under rule 5160-1-17.8 of the Administrative Code.

(5) The provider meets the insurance requirement under paragraph (A)(5) of rule 173-39-02 of the Administrative Code.

(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 disqualified under section 173.38 or 173.381 of the Revised Code or under 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 that the provider is seeking certification to provide.
- (e) ODA previously revoked the provider's certification.
- (f) ODA previously denied an application submitted by the provider within the past three years for any of the reasons stated in paragraphs (H)(1)(a) and (H)(1)(b) of this rule.
- ~~(f)(g)~~ Any reason permitted or required by state or federal law.

- (2) ~~When ODA denies a provider's application, ODA notifies the provider of its final determination and any applicable hearing rights~~ complies with the administrative appeals procedures established in section 173.391 of the Revised Code.
- (3) ~~When ODA denies a provider's application, the~~ The provider is ineligible to reapply for certification for one year after the mailing date of ODA's final adjudication order denying a provider's application.

Effective:

Five Year Review (FYR) Dates: 3/26/2024

Certification

Date

Promulgated Under: 119.03

Statutory Authority: 121.07, 173.01, 173.02, 173.391, 173.52, 173.522,
173.54, 173.543, 4796.30

Rule Amplifies: 173.39, 173.391, 173.52, 173.522, 173.54, 173.543; 42
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