

## Rule Summary and Fiscal Analysis

### Part A - General Questions

**Rule Number:** 173-39-03

**Rule Type:** Amendment

**Rule Title/Tagline:** ODA provider certification: applying for certification.

**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?** 10/26/2020
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 C.F.R. 441.352
6. **What are the reasons for proposing the rule?**

ODA proposes to amend this rule as part of a larger rule package of rules from Chapter 173-39 of the Administrative Code that implements amendments related to the COVID-19 state of emergency and other matters.
7. **Summarize the rule's content, and if this is an amended rule, also summarize the rule's changes.**

This rule establishes the procedures for applying to become certified by ODA.

ODA proposes to amend this rule to do the following:

On June 11, 2020, ODA adopted an emergency amendment to temporarily allow its designees to conduct a desk review of a provider's business site for a pre-certification review. Through this rule package ODA proposes to give its designees flexibility to determine when to visit or conduct a desk review of the provider's business site for a pre-certification review.

On June 11, 2020, ODA adopted an emergency amendment to temporarily allow ODA to approve an extended deadline for its designees to complete pre-certification reviews. Through this rule package, ODA proposes to adopt the amendment on an ongoing basis.

On June 11, 2020, ODA adopted an emergency amendment to temporarily allow its designees to decide whether to conduct a pre-certification of a participant-directed provider with or without the individual who directs the participant directed provider. Through this rule package, ODA proposes to adopt the amendment on an ongoing basis.

On June 11, 2020, ODA adopted an emergency amendment to temporarily deem any provider certified by ODM or ODODD 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 Chapter 173-39 of the Administrative Code. Through this rule package, ODA proposes to adopt the amendment on an ongoing basis.

8. **Does the rule incorporate material by reference? No**
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.**

*Not Applicable*

10. **If revising or re-filing the rule, please indicate the changes made in the revised or re-filed version of the rule.**

ODA made a revised filing of this rule to replace "Wednesday" with "Monday" on the public hearing notice. In doing so, ODA did not revise the rule.

## **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

ODA's proposed amendment of this rule will have no impact upon the biennial budget that the Ohio General Assembly established for ODA in H.B. 166 (133rd G.A.).

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

ODA's proposed amendment of this rule will create no new cost of compliance to any person and/or organization directly affected by this rule. For more information, please review the business impact analysis.

- 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.**

ODA does not currently charge the fee allowed under section 173.391 of the Revised Code,

### **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? Yes**

ODA may deny an application.

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

This rule requires providers who want to attain ODA certification to apply for ODA certification. For more information, please review the business impact analysis.

- 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?** Yes

- A. **How many new regulatory restrictions do you propose adding?** 0
- B. **How many existing regulatory restrictions do you propose removing?** 1

(B)(1)(e) ODA's designee SHALL 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.