

**Rule Summary and Fiscal Analysis (Part A)****Department of Aging**

Agency Name

Division

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**173-39-04**

Rule Number

**NEW**

TYPE of rule filing

Rule Title/Tag Line

**Provider structural compliance review.****RULE SUMMARY**

1. Is the rule being filed consistent with the requirements of the RC 119.032 review? **No**

2. Are you proposing this rule as a result of recent legislation? **Yes**

Bill Number: **HB66**General Assembly: **126**Sponsor: **Calvert**

3. Statute prescribing the procedure in accordance with the agency is required to adopt the rule: **119.03**

4. Statute(s) authorizing agency to adopt the rule: **173.02, 173.391**

5. Statute(s) the rule, as filed, amplifies or implements: **173.39, 173.391**

6. State the reason(s) for proposing (i.e., why are you filing,) this rule:

This rule is being proposed in an effort to implement the provider certification requirements found in sections 173.39 and 173.39.1 of the Revised Code. (With only the one exception found in section 173.39.2 of the Revised Code, section 173.39 of the Revised Code prohibits the Department of Aging from paying any person or government entity for providing community-based long-term care services under a program the Department administers unless the person or government entity has been certified by the Department or its designee under section 173.39.1 of the Revised Code.)

7. If the rule is an AMENDMENT, then summarize the changes and the content of the proposed rule; If the rule type is RESCISSION, NEW or NO CHANGE, then summarize the content of the rule:

This rule requires certified community-based long-term care providers to undergo periodic structural compliance reviews in order to maintain their certification, establishes minimum requirements that must be met in order for these reviews to be valid, requires providers to return any overpayment identified during the unit of service verification process conducted during the review, establishes requirements and deadlines that must be met by the entity conducting the review, the Department of Aging and the provider after a structural compliance report has been prepared, authorizes the Department and/or its designee to conduct follow-up reviews of a provider to evaluate the provider's compliance with any certification requirements outlined in Chapter 173-39 of the Administrative Code and any plans of correction required by the Department as a result of a structural compliance review, authorizes the Department or its designee to conduct unannounced on-site reviews of certified providers independent of the periodic structural compliance review described above and/or to make a determination as to whether the health and/or safety of a consumer is at imminent risk, and authorizes a provider to challenge and request a review of the findings of any structural compliance review conducted by the Department or its designee.

8. If the rule incorporates a text or other material by reference and the agency claims the incorporation by reference is exempt from compliance with sections 121.71 to 121.74 of the Revised Code because the text or other material is **generally available** to persons who reasonably can be expected to be affected by the rule, provide an explanation of how the text or other material is generally available to those persons:

*This response left blank because filer specified online that the rule does not incorporate a text or other material by reference.*

9. If the rule incorporates a text or other material by reference, and it was **infeasible** for the agency to file the text or other material electronically, provide an explanation of why filing the text or other material electronically was infeasible:

*This response left blank because filer specified online that the rule does not incorporate a text or other material by reference.*

10. If the rule is being **rescinded** and incorporates a text or other material by reference, and it was **infeasible** for the agency to file the text or other material, provide an explanation of why filing the text or other material was infeasible:

*Not Applicable.*

11. If **revising** or **refiling** this rule, identify changes made from the previously filed version of this rule; if none, please state so:

*Not Applicable.*

12. 119.032 Rule Review Date:

(If the rule is not exempt and you answered NO to question No. 1, provide the scheduled review date. If you answered YES to No. 1, the review date for this rule is the filing date.)

NOTE: If the rule is not exempt at the time of final filing, two dates are required: the current review date plus a date not to exceed 5 years from the effective date for Amended rules or a date not to exceed 5 years from the review date for No Change rules.

### **FISCAL ANALYSIS**

13. Estimate the total amount by which *this proposed rule* would **increase / decrease** either **revenues / expenditures** for the agency during the current biennium (in dollars): Explain the net impact of the proposed changes to the budget of your agency/department.

This will have no impact on revenues or expenditures.

0.00

Not Applicable

14. Identify the appropriation (by line item etc.) that authorizes each expenditure necessitated by the proposed rule:

GRF 490-403, 3C4 490-607, 4J4 490-610, 4U9 490-602, GRF 490-422, 3C4 490-622.

15. Provide a summary of the estimated cost of compliance with the rule to all directly affected persons. When appropriate, please include the source for your information/estimated costs, e.g. industry, CFR, internal/agency:

Providers will most certainly incur costs to maintain and store records, and to make those records available to the Department, the Department's designee, and/or other state and federal agencies when conducting investigations and monitoring the

provider. These costs will necessarily vary in amount based upon the resources available to the provider and the amount of records created by the provider in compliance with the requirements outlined in Chapter 173-39 of the Administrative Code.

16. Does this rule have a fiscal effect on school districts, counties, townships, or municipal corporations? **Yes**

You must complete Part B of the Rule Summary and Fiscal Analysis in order to comply with Am. Sub. S.B. 33 of the 120th General Assembly.

17. Does this rule deal with environmental protection or contain a component dealing with environmental protection as defined in R. C. 121.39? **No**

**Rule Summary and Fiscal Analysis (Part B)**

1. Does the Proposed rule have a fiscal effect on any of the following?

(a) School Districts	(b) Counties	(c) Townships	(d) Municipal Corporations
No	Yes	Yes	Yes

2. Please provide an estimate in dollars of the cost of compliance with the proposed rule for school districts, counties, townships, or municipal corporations. If you are unable to provide an estimate in dollars, please provide a written explanation of why it is not possible to provide such an estimate.

The Department is unable to estimate in dollars the cost of compliance with the proposed rule. Providers wishing to be certified to participate in programs administered by the Department of Aging will incur costs to create and store records and make those records available to the Department of Aging and others for purposes of monitoring and investigation. The costs will necessarily vary according to the amount of records generated by the provider when providing services for programs administered by the Department, and the availability of storage. In addition, provider staff will be needed to create and store the records and make them available to representatives of the Department and other. Because participation in the Department's programs is voluntary and the Department reimburses its providers for the costs they incur, even administrative costs related to record keeping, at a rate negotiated in advance between the provider and ODA's designee, it is hoped that a provider's expenses will be minimal.

3. If the proposed rule is the result of a federal requirement, does the proposed rule exceed the scope and intent of the federal requirement? **No**

4. If the proposed rule exceeds the minimum necessary federal requirement, please provide an estimate of, and justification for, the excess costs that exceed the cost of the federal requirement. In particular, please provide an estimate of the excess costs that exceed the cost of the federal requirement for (a) school districts, (b) counties, (c) townships, and (d) municipal corporations.

*Not Applicable.*

5. Please provide a comprehensive cost estimate for the proposed rule that includes the procedure and method used for calculating the cost of compliance. This comprehensive cost estimate should identify all of the

major cost categories including, but not limited to, (a) personnel costs, (b) new equipment or other capital costs, (c) operating costs, and (d) any indirect central service costs.

Please refer to the discussion above.

(a) Personnel Costs

Unknown

(b) New Equipment or Other Capital Costs

Unknown

(c) Operating Costs

Unknown

(d) Any Indirect Central Service Costs

Unknown

(e) Other Costs

Unknown

6. Please provide a written explanation of the agency's and the local government's ability to pay for the new requirements imposed by the proposed rule.

A provider's participation in programs administered by the Department is voluntary. A local government that cannot afford to participate as a provider is not required to do so. Also, the costs of the provider are reimbursed by the Department at a rate negotiated in advance of the provision of services by the provider. Therefore, most, if not all, of a local government's costs with regard to programs administer by the Department should be paid.

7. Please provide a statement on the proposed rule's impact on economic development.

The Department is not aware of any impact this rule will have on economic

development.