

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

Agency Name

Division

Mike Laubert

Contact

**50 West Broad St. 9th Floor Columbus OH
43215-3363**

Agency Mailing Address (Plus Zip)

614-752-9677

Phone

614-466-5741

Fax

173-39-07

Rule Number

NEW

TYPE of rule filing

Rule Title/Tag Line

Appeal of denial of certification and proposed sanctions.**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: **Chapter 119., 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 describes the process under which a provider must submit its request to appeal the proposed denial of its certification or the imposition of sanctions and imposes a deadline, describes how the Department will determine the date upon which a provider's request to appeal a proposed action was made, requires the Department to issue an order against a provider whenever the provider fails to challenge the proposed action within thirty calendar days of the mailing of the notice proposing to deny certification or impose sanctions.

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

The Department anticipates that the proposed rule will have no impact upon the Department's budget in the current biennium.

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:

Provider agencies that have been proposed for denial of certification, whose certification has been proposed for termination, or against whom the Department has proposed sanctions are required by this rule to request an appeal hearing if they wish to challenge the proposed action. Impacted providers will incur expenses of preparing their appeal requests and delivering them to the Ohio Department of Aging. The costs incurred by providers will necessarily vary from one provider to the next and cannot be accurately estimated by the Department.

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 the costs of compliance with the proposed rule for local governments. Rule 173-39-07 outlines the process a provider must follow when appealing a denial certification and/or the proposed imposition of sanctions. The bulk of the rule discusses how to determine when a request for an appeal hearing has been, but it also requires providers to put their requests in writing and mail or deliver the request to ODA within thirty days. Understandably, some providers may contact attorneys for advice on how to proceed. This would, of course result in costs that surpass just the costs of the paper upon which the letter was written, and delivery costs.

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 response to provided 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.

Local governments are not required to participate in programs administered by the Department, or to appeal the Department's decisions. In addition, the Department reimburses providers for the costs of providing services. This reimbursement may go a long way toward helping to cover any costs incurred by the provider to appeal the proposed decision by the Department.

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

The Department is not aware that the attached rule will have any impact upon economic development.