

## Rule Summary and Fiscal Analysis

### Part A - General Questions

**Rule Number:** 173-4-06

**Rule Type:** Amendment

**Rule Title/Tagline:** Older Americans Act nutrition program: diet orders.

**Agency Name:** Department of Aging

**Division:**

**Address:** 246 N. High St. 1st Floor Columbus OH 43215-2046

**Contact:** Tom Simmons **Phone:** 614-202-7971

**Email:** tsimmons@age.ohio.gov

#### I. Rule Summary

1. **Is this a five year rule review?** Yes
  - A. **What is the rule's five year review date?** 10/14/2022
2. **Is this rule the result of recent legislation?** Yes
  - A. **If so, what is the bill number, General Assembly and Sponsor?** SB 9 - 134 - McColley, Roegner
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, 173.392; 42 U.S.C. 3025; 45 C.F.R. 1321.11, 1321.17
5. **What statute(s) does the rule implement or amplify?** 173.39, 173.392; 42 U.S.C. 3025, 3030g-21; 45 C.F.R. 1321.11, 1321.17
6. **Does the rule implement a federal law or rule in a manner that is more stringent or burdensome than the federal law or regulation requires?** No
  - A. **If so, what is the citation to the federal law or rule?** Not Applicable
7. **What are the reasons for proposing the rule?**

This rule exists to comply with R.C. §173.392 and 45 C.F.R. 1321.11. The primary purpose of this filing is to reduce regulatory restrictions.

- 8. Summarize the rule's content, and if this is an amended rule, also summarize the rule's changes.**

This rule establishes requirements for AAA-provider agreements involving diet orders.

ODA proposes to delete the use of unnecessary regulatory restrictions from this rule without substantively changing the rule's requirements.

- 9. Does the rule incorporate material by reference? Yes**
- 10. 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.**

A definition that refers to a definition in the United States Code (U.S.C.) provides a reference to the U.S.C. that the general public can use to access the U.S.C. section on <http://uscode.house.gov/search/criteria.shtml>.

A definition that refers to a definition in the Code of Federal Regulations (C.F.R.) provides a reference to the C.F.R. that the general public can use to access the C.F.R. section on <https://www.ecfr.gov/>.

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

*Not Applicable*

## **II. Fiscal Analysis**

- 12. 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

Not Applicable

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

Please review the BIA for details.

14. Does the rule increase local government costs? (If yes, you must complete an RSFA Part B). No
15. Does the rule regulate environmental protection? (If yes, you must complete an RSFA Part C). No
16. If the rule imposes a regulation fee, explain how the fee directly relates to your agency's cost in regulating the individual or business.

Not Applicable

### III. Common Sense Initiative (CSI) Questions

17. Was this rule filed with the Common Sense Initiative Office? Yes
18. 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? No
  - C. Does this rule require specific expenditures or the report of information as a condition of compliance? Yes

Please review the BIA for details.

- 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 Restriction Requirements under S.B. 9. Note: This section only applies to agencies described in R.C. 121.95(A).

19. 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 to this rule? 0

**B. How many existing regulatory restrictions do you propose removing from this rule? 7**

(B) In every AAA-provider agreement for therapeutic diets, medical meals, or food for a special dietary use paid, in whole or in part, with Older Americans Act funds, the AAA SHALL include the following requirements:

(B)(1) In the AAA-provider agreement, the AAA SHALL include the requirements in rule 173-3-06 of the Administrative Code for every AAA-provider agreement paid, in whole or in part, with Older Americans Act funds.

(B)(2)(a) The provider SHALL only provide a therapeutic diet, medical food, or food for special dietary use to a consumer if the provider received a diet order for the consumer.

(B)(2)(a) If the therapeutic diet is a dysphagia nutritive regimen, the provider SHALL only provide the therapeutic diet if the diet order indicates whether the consumer requires texture-modified foods and/or thickened liquids.

(B)(2)(d) The provider SHALL assure the therapeutic diet contains nutrients consistent with the diet order by either utilizing nutrient analysis or by using a meal-pattern plan approved by a dietitian.

(B)(2)(e) The provider SHALL only provide a therapeutic diet, medical food, or food for special dietary use if the provider (or, if the consumer is in a care-coordination program, the AAA), retains a copy of the diet order.

(B)(3)(b) A provider SHALL only provide medical food and food for a special dietary use if the provider relies upon the oversight of a dietitian when providing medical food or food for a special dietary use.

**C. If you are not removing existing regulatory restrictions from this rule, please list the rule number(s) from which you are removing restrictions.**

**D. Please justify the adoption of the new regulatory restriction(s).**

Not Applicable