

Rule Summary and Fiscal Analysis

Part A - General Questions

Rule Number: 173-4-07

Rule Type: Amendment

Rule Title/Tagline: Older Americans Act nutrition program: nutrition counseling.

Agency Name: Department of Aging

Division:

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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?** 10/16/2020
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, 173.392; 42 U.S.C. 3025; 45 C.F.R. 1321.11
5. **What statute(s) does the rule implement or amplify?** 173.39, 173.392; 42 U.S.C. 3025, 3030e, 3030f, 3030g-21; 45 C.F.R. 1321.11, 1321.65
6. **What are the reasons for proposing the rule?**

ODA proposes to amend this rule as part of a larger rule package to implement 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.**

Section 173.392 of the Revised Code requires ODA to adopt rules to establish requirements for AAA-provider agreements. This rule establishes requirements applying only to AAA-provider agreements for nutrition counseling.

On June 11, 2020, ODA adopted an emergency amendment to this rule to allow providers to decide whether, during the state of emergency, to collect a unique identifier of the consumer (e.g., a handwritten signature) to verify that an activity or unit of service was provided. This allowed the provider and consumer to maintain social distancing. Through this rule package, ODA proposes to allow providers to decide whether, during any state of emergency declared by the governor, to collect a unique identifier of the consumer to verify that an activity or unit of service was provided.

ODA also proposes to delete paragraph (B)(3)(d) of this rule because it is unnecessary. An AAA can establish limits when it procures for nutrition counseling or in the AAA-provider agreement.

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.**

Not Applicable

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

The proposed amendments to this rule will not affect 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 amendments to this rule will not increase the cost of compliance for providers. One amendment will give providers flexibility to maintain social distancing during a state of emergency declared by the governor. 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.

Not Applicable

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? No

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

This rule requires providers to comply with requirements that are common to nutrition counseling and verify that they provided the counseling sessions for which they bill ODA. 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

ODA's proposed amendment will give providers flexibility during a state of emergency. For more information, please review the business impact analysis.

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? 2

(B)(3)(d) The provider SHALL NOT provide counseling in excess of any limits the AAA establishes

(B)(4)(b) The provider SHALL conduct subsequent sessions...