

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?** 10/14/2022
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, 3030e, 3030f, 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 applying only to AAA-provider agreements for nutrition counseling.

ODA proposes to amend this rule to achieve the following:

1. Delete the use of unnecessary regulatory restrictions from this rule without substantively changing the rule's requirements.
2. Give providers flexibility to verify a unit of service during a state of emergency declared by the governor or a federal public health emergency without collecting the unique identifier of the consumer's caregiver.

9. Does the rule incorporate material by reference? No

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.

Not Applicable

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? 9

(B) In every AAA-provider agreement for nutrition counseling paid, in whole or in part, with Older Americans Act funds, the AAA SHALL include the following requirements:

(B)(1) In the 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) Only a licensed dietitian ("dietitian") working for an agency provider, or a licensed dietitian working as a self-employed provider SHALL provide counseling to consumers.

(B)(3)(b) The provider SHALL NOT provide counseling in excess of the amount the licensed healthcare professional ordered.

(B)(3)(c) The provider SHALL NOT provide counseling to a consumer's caregiver unless the licensed healthcare professional also ordered counseling for the consumer's caregiver to improve the caregiver's care to the consumer.

(B)(6)(a) The plan SHALL include all the following:

(B)(6)(b) ..., the provider SHALL forward the nutrition intervention plan to the same professional and, if the consumer is in a care-coordination program, to the consumer's case manager.

(B)(6)(c) The provider SHALL provide reports on the intervention plan's implementation and the consumer's outcomes....

(B)(7)(a) By one of the following two methods, the provider SHALL verify that each consultation for which it bills was provided:

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