

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

Agency Name

Division

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**173-45-09**

Rule Number

**NEW**

TYPE of rule filing

Rule Title/Tag Line

**Facility fees.****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: **RC 173.02, 173.49**

5. Statute(s) the rule, as filed, amplifies or implements: **RC 173.46, 173.47**

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 sections 173.45 to 173.49 of the Revised Code, which require the Ohio Department of Aging to develop and publish a guide to long-term care facilities for use by individuals considering long-term care facility admission and their families, friends and advisors.

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 sets the consumer guide fee that is charged for nursing and residential care facilities in Ohio; requires the Department to circulate billing statements for the fees once every year and specifies what information must appear on each statement; requires each facility to make full payment within thirty days of receiving a statement; provides that the Department will certify to the attorney general the amount of any payment not received by the Department within forty-five days after the payment becomes due.

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

It is anticipated that the adoption of the proposed rule will have no impact upon the Department of Aging's budget in the current biennium. All fees to be collected under the proposed rule have already been factored into the Department of Aging's budget for the current biennium period.

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

All of the Department's expenses related to developing and maintaining the Long-Term Care Consumer Guide are paid for with funds appropriated to the Department in Fund 3M4 490-612 (Federal Independence Services) and Fund 5K9 490-413 (Long-Term Care Consumer Guide).

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:

Consistent with section 173.47 of the Revised Code, this rule provides that the Department of Aging shall collect an annual fee of \$400 from each nursing facility in Ohio, and an annual fee of \$300 from each residential care facility in Ohio, to pay for the conduct of annual customer satisfaction surveys required under section 173.47 of the Revised Code. (Note: section 173.47 of the Revised Code provides that the fees paid by a long-term care facility that is a nursing facility are reimbursed through the Medicaid program operated under Chapter 5111. of the Revised.) In addition to the fees charged to long-term care facilities, long-term care facilities may incur additional costs in terms of staff time and/or other administrative costs to respond to the billing statements submitted to the providers

by the Department, and/or any other costs incurred in the event the Department of Aging is forced to certify unpaid invoices over to the Attorney General's office for collection. The Department of Aging is unable to accurately estimate what these additional costs might be given that the costs will necessarily differ from one provider and/or region of the state to the next. The Attorney General's Office charges facilities an additional collection fee of 11% of the unpaid invoice, adding \$33 to the amount due from an RCF and \$44 to the amount due from a Nursing Home.

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	No	No

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.

Counties that own and/or operate nursing facilities and/or residential care facilities are required under the proposed rule to pay a fee of \$400 for each nursing facility and \$300 for each residential care facility they own/operate to pay for the costs of the surveys conducted by the Department pursuant to sections 173.46 and 173.47 of the Revised Code. These counties may incur additional costs in terms of staff time and/or other administrative costs to respond to and process the invoices distributed by the Department of Aging for the fees described above. They may also incur additional costs in the event the Department of Aging finds it necessary to certify any unpaid fees over to the Office of the Attorney General for collection, but the Department of Aging is unable to estimate these costs accurately given that they will necessarily differ from one county to the next.

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.

In addition to the fees required by the proposed rule, it is recognized that counties may incur additional costs, in terms of staff time and/or other administrative costs, to respond to and process the invoices distributed by the Department of Aging for the fees provided for in the rule. For instance, counties may incur additional costs in the event the Department of Aging finds it necessary to certify any unpaid fees over to the Office of the Attorney General for collection. The Department of Aging, however, is unable to estimate these costs accurately given that they will necessarily differ from one county and/or region of the state to the next. The Attorney General's Office charges facilities an additional collection fee of 11% of the unpaid invoice, adding \$33 to the amount due from an RCF and \$44 to the amount due from a Nursing Home.

(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.

The Department is aware that several counties in Ohio operate nursing and/or residential care facilities. It is believed that the majority, if not all, of these facilities participate in the Medicaid program. Because the General Assembly determined in

section 173.47 of the Revised Code that fees paid to comply with this rule will be reimbursable under the Medicaid program, the Department does not believe that many, if any, counties operating these types of facilities will find it difficult to pay the fees required by the rule and authorized by the General Assembly.

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

The Department of Aging does not believe that the payment of the fees required by this rule, and authorized by the General Assembly in section 173.47 of the Revised Code, will have any measurable impact upon the economic development of any county required to pay the fee in question given that the fees are relatively low and, if reimbursable by the Medicaid program, almost negligible.