

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

Agency Name

Division

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173-51-05

Rule Number

NO CHANGE

TYPE of rule filing

Rule Title/Tag Line

Covered services.**RULE SUMMARY**

1. Is the rule being filed consistent with the requirements of the RC 119.032 review? **Yes**

2. Are you proposing this rule as a result of recent legislation? **No**

3. Statute prescribing the procedure in accordance with the agency is required to adopt the rule: **111.15**

4. Statute(s) authorizing agency to adopt the rule: **173.01, 173.02, 5111.89**

5. Statute(s) the rule, as filed, amplifies or implements: **5111.89**

6. State the reason(s) for proposing (i.e., why are you filing,) this rule:

H.B. No. 153 (129th G.A.) authorized ODA to adopt rules to create the state-funded component of the Assisted Living Program beginning on September 29, 2011. Accordingly, ODA adopted Chapter 173-51 of the Administrative Code for the state-funded component of the program.

The state-funded component of the program did not contain provider-certification regulations or rules for covered services that were different that the

Medicaid-funded component of the program. However, because the rules for the state-funded component of the program would appear in a separate chapter from the Medicaid-funded component of the program, ODA adopted two rules to give cross references to readers who may browse the Ohio Administrative Code looking for the chapter of rules on the state-funded component of the program, but (without rule-filed cross references) not realize that the regulations for provider certification and covered services were adopted into the rules of a different chapter of the Administrative Code. Those two rules are rules 173-51-04 and 173-51-05 of the Administrative Code.

Unfortunately, when ODA adopted the two rules on September 29, 2011, ODA also accidentally established the next review date for the rules--commonly called the "5-year rule review date"--for September 29, 2011. In order to establish a review date five years into the future, ODA has decided to file the rules again. Because ODA's review of these simple cross-reference rules has revealed no reason to change the language, ODA will file them as a no-change rule filing.

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:

Rule 173-51-05 of the Administrative Code informs the reader that two services that the state-funded component of the Assisted Living Program covers are the services regulated by rules 173-39-02.16 and 173-39-02.17 of the Administrative Code. When H.B.153 created the state-funded component of the program, it appropriated state-only funds to the existing Assisted Living Program. The two services covered by the program did not change, nor did the two rules that regulate the two services. Stating in rule that the state-funded component of the program is limited to the two services created no new requirement. Furthermore, the no-change filing of this rule creates no new requirement.

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. If applicable, indicate each specific paragraph of the rule that has been modified:

Not Applicable.

12. 119.032 Rule Review Date: **3/25/2013** and **03/25/2018**

(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

Although ODA operates the state-funded component of the Assisted Living Program, H.B.153 (129th G.A.) moved the Assisted Living Program's funding to budget line item GRF-600-525, which is under JFS, not ODA. Therefore, ODA estimates that the proposed no-change filing of this rule will have no impact upon the biennial budget that the Ohio General Assembly established for ODA in H.B. No. 153 or that was reviewed by H.B. No. 487 (129th G.A.). Additionally, ODA

estimates that the proposed no-change filing of this rule will have no impact upon the biennial budget that the Ohio General Assembly established for JFS.

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

GRF-600-525 Health Care/Medicaid (State and Federal).

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:

ODA estimates that there is no cost of compliance to any person who is affected by the no-change filing of this rule. When H.B.153 created the state-funded component of the program, it appropriated state-only funds to the existing Assisted Living Program, which provided a pre-Medicaid enrollment option. The two services covered by the program did not change, nor did the two rules that regulate the two services. Stating in rule that the state-funded component of the program is limited to the two services created no new requirement. Furthermore, the no-change filing of this rule creates no new requirement.

16. Does this rule have a fiscal effect on school districts, counties, townships, or municipal corporations? **No**

17. Does this rule deal with environmental protection or contain a component dealing with environmental protection as defined in R. C. 121.39? **No**

S.B. 2 (129th General Assembly) Questions

18. Has this rule been filed with the Common Sense Initiative Office pursuant to R.C. 121.82? **No**

19. Specific to this rule, answer the following:

A.) Does this rule require a license, permit, or any other prior authorization to engage in or operate a line of business? **No**

This rule is a helpful cross reference for readers of Chapter 173-51 of the Administrative Code, not a rule unique regulation. It creates no adverse impact. Instead, it benefits a provider who may read Chapter 173-51 of the Administrative Code, but not be aware that the two services that are part of the program are regulated by two rules in Chapter 173-39 of the Administrative Code.

Additionally, when H.B.153 created the state-funded component of the program, it appropriated state-only funds to the existing Assisted Living Program, which provided a pre-Medicaid enrollment option. The two services covered by the program did not change, nor did the two rules that regulate the two services. Stating in rule that the state-funded component of the program is limited to the two services created no new requirement. Furthermore, the no-change filing of this rule creates no new requirement.

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? **No**