

173-9-02**Applicability.**

(A) Applicability: Chapter 173-9 of the Administrative Code (the chapter) applies to every paid ombudsman position and every paid direct-care position unless this rule states otherwise. (ODA defined "ombudsman position" and "direct-care position" in rule 173-9-01 of the Administrative Code.)

(B) Limited applicability: Although the chapter applies to any a person who is an applicant (pre-hire) for a paid direct-care position, a person who is an employee in one of the following paid direct-care positions is not required to undergo subsequent (post-hire) database reviews and criminal records checks:

(1) A direct-care position that only delivers home-delivered meals.

(2) A direct-care position that only has access to one or more consumers' personal records (e.g., a position in an office, kitchen, or central monitoring station).

(3) A direct-care position that only provides a one-time chore service, home maintenance, home modification, home repair, or pest control. If the person provides a subsequent episode of service to the same consumer or to another consumer who is enrolled in an ODA-administered program, the person shall undergo subsequent (post-hire) database reviews and criminal records checks.

(C) Inapplicability: The chapter does not apply to the following positions:

(1) A volunteer position.

(2) A position that solely involves transporting consumers while working for a county transit system, regional transit authority, or regional transit commission.

(3) A position that involves providing legal services.

(4) A position in a residential care facility.

(5) A position providing medicare-certified home health services.

(6) A position that only serves consumers who are enrolled in an ODM-administered medicaid waiver program.

(D) No implied factors: Whether a position is supervised or unsupervised, alone or never alone, enters a home or never enters a home, regulated elsewhere or not regulated elsewhere is not a factor that determines if the chapter applies to the position.

(E) Chief administrators: Requirements in the chapter for responsible parties of area agencies on aging, PASSPORT administrative agencies, agency providers, and agency sub-contractors to request, review, or retain criminal records are requirements of each responsible party's chief administrator or any person that the

chief administrator designates for these tasks.

Replaces: 173-9-02

Effective:

R.C. 119.032 review dates:

Certification

Date

Promulgated Under: 119.03
Statutory Authority: 173.01, 173.02, 173.27, 173.38, 173.391, 173.392;
Sections 305(a)(1)(C) and 712(a)(5)(D) of the Older
Americans Act of 1965, 79 Stat. 210, 42 U.S.C. 3001,
as amended in 2006; 45 C.F.R. 1321.11 (10-01-2013
edition)
Rule Amplifies: 173.27, 173.38; 42 C.F.R. 460.68(a), 460.71(a)(1),
460.71(a)(2) (10-01-2013 edition)
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