

Rule Summary and Fiscal Analysis

Part A - General Questions

Rule Number: 173-9-07.1

Rule Type: Rescission

Rule Title/Tagline: Background checks for paid direct-care positions: certifying or entering into an AAA-provider agreement with a self-employed provider who has a disqualifying offense on his or her criminal record.

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?** 7/20/2023
2. **Is this rule the result of recent legislation?** Yes
 - A. **If so, what is the bill number, General Assembly and Sponsor?** SB 288 - 134 - Manning
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, 173.381, 173.391, 173.392; 45 U.S.C. 3025; 45 C.F.R. 1321.11
5. **What statute(s) does the rule implement or amplify?** 173.381
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 establish four occasions when a responsible party is prohibited from refusing to certify a self-employed provider under R.C. §173.391 or enter into an AAA-provider agreement under R.C. §173.392 solely because the self-employed provider has a disqualifying offense on the provider's criminal record.

- 8. Summarize the rule's content, and if this is an amended rule, also summarize the rule's changes.**

This rule establishes four occasions when a responsible party is prohibited from refusing to certify a self-employed provider under R.C. §173.391 or enter into an AAA-provider agreement under R.C. §173.392 solely because the self-employed provider has a disqualifying offense on the provider's criminal record. ODA proposes to rescind this rule and to replace it with rule 173-9-07 of the Administrative Code.

- 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

Rescinding this rule will have no impact upon the biennial budget that the Ohio General Assembly established in House Bill 33 (135th G.A.).

- 13. What are the estimated costs of compliance for all persons and/or organizations directly affected by the rule?**

Please review ODA's responses to questions #15, #16, and #17 on the BIA.

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

Please review ODA's responses to questions #15, #16, and #17 on the BIA.
 - 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

Please review ODA's responses to questions #15, #16, and #17 on the BIA.
 - 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

(A) Disqualifying offense exclusionary periods: A responsible party SHALL NOT reject a self-employed provider's application for ODA certification....

(A)(1) A responsible party SHALL reject a self-employed provider's application for ODA certification....

(A)(2)(a) For ten years..., the responsible party SHALL reject....

(A)(3)(a) For seven years...the responsible party SHALL reject....

(A)(4)(a) For five years...the responsible party SHALL reject....

(A)(5) The responsible party SHALL NOT reject....

(B) The responsible party SHALL NOT reject....

(C) The responsible party SHALL NOT reject....

(D) The responsible party SHALL NOT reject....

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