

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

Agency Name

Division

**Lance D. Himes**

Contact

**246 North High St. Columbus OH 43215-0000**

Agency Mailing Address (Plus Zip)

**614-466-4882**

Phone

Fax

**Lance.Himes@odh.ohio.gov**

Email

**3701-8-02.1**

Rule Number

**NEW**

TYPE of rule filing

Rule Title/Tag Line

**Monitoring Contractors.****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: **HB153**General Assembly: **129**Sponsor: **Amstutz**

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: **3701.61**

5. Statute(s) the rule, as filed, amplifies or implements: **3701.61**

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

The rule is being proposed due to the rule review requirement in R.C. Section 119.032; changes in federal Early Intervention regulations; and changes to the Home Visiting program.

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 3701-8-02.1 is new, but replaces part of current O.A.C. rule 3701-8-07. The proposed new rule lists how the department will monitor contractors for compliance with program-related federal and state laws, regulations, rules or the terms of the grant, agreement or contract authorizing the award of help me grow funds; and the actions that the department will take when non-compliance is found.

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 rule references sections of the Ohio Administrative Code (O.A.C). The O.A.C. is generally available in libraries and on the internet to persons who reasonably can be expected to be affected by the rule. Additionally, the rule mentions Department of Health (HEA) forms that will be available on the ohiohelpmegrow.org website and provided upon approval of contract or grant.

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:

Ohio Revised Code 121.76 exempts agencies from filing copies of Ohio law and regulations cited in the text of a rule.

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:

7/12/2012: This rule was TBR-ed to keep it with the rest of the package. The rule is now being re-filed with no changes, however, a few minor corrections were made to the fiscal analysis form.

## 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 increase expenditures.

\$904,636.00

The net impact is to increase expenditures. Staff time will be increased to monitor the various contractors to whom this rule applies. Data analysis and monitoring plans will be needed from one researcher. Monitoring staff time will be increased due to the provisions set forth in this rule, including communicating with contractors (an increase from 88 to an estimated 100 home visiting contractors, 88 centralized coordination, 88 early intervention, and the existing 270 EISOP providers); issuing findings of non-compliance, providing technical assistance for corrective action plans, following corrective action plans, and making recommendations to the director about other sanctions when contractors fail to correct non-compliance. This rule also puts a process in place for contractors to request re-consideration of findings decisions, which will take staff time. Agency impact calculated with salary and fringe costs for one researcher at 100% time data analysis; monitoring manager at 100% time, and three monitoring staff at 100% time for the remaining year in this biennium. These expenditures will be supported with existing resources.

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

GRF DOH00A 440459

Federal Home Visiting funds DOH52P 440618

Federal Early Intervention funds DOH01W 440618

Medicaid Administrative Claiming funds DOH99E 440646

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:

Contractors who enter into contract, grant, or agreement will be those affected. The cost of compliance is staff time for oversight and monitoring meeting the rule requirements in the Chapter of rules as they apply to the individual contractors. Estimated costs are unknown at this time, but they are expected to be almost exclusively personnel hours for an individual who will oversee meeting the contract, grant, or agreement requirements.

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**

**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? **Yes**

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**

Help Me Grow is a voluntary program, but requires a contract, grant, or agreement to participate and seek reimbursement as a contractor.

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? **Yes**

When the director determines that a help me grow contractor or provider is not in compliance with the rules in Chapter 3701-8 of the Administrative Code, the terms of a grant, agreement or contract entered into by contractor or provider and other applicable program-related federal or state laws, the director of health shall notify

the contractor or provider in writing of the specific findings and the action the department will take. Actions may include, but are not limited to:

- (1) Request correction of incomplete or inaccurate data in the statewide data system;
- (2) Participate in technical assistance or training provided by the department;
- (3) Require a plan of corrective action;
- (4) Require an early intervention service coordination contractor or an early intervention system of payment provider to reimburse or compensate family upon a finding that contractor did not provide early intervention services as required by the rules in Chapter 3701-8 of the Administrative Code, the terms of a grant, agreement, or contract entered into by contractor or provider and other applicable program-related federal or state laws;
- (5) Withhold future funds or require repayment of funds to the department; or
- (6) Suspend or terminate contractor's or provider's grant, agreement, or contract.

C.) Does this rule require specific expenditures or the report of information as a condition of compliance? **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.

The estimated cost of compliance is not for this particular rule, but with the entire Chapter of rules. The cost estimate is for personnel who will provide oversight and monitoring of the contractor's service providers. While this rule includes four different types of contractors, the ODH is estimating that one contract manager will be paid an average of \$40,000 per year for a proportion of their time (for EI System of Payment provider business office managers) to \$75,000 per year (for Home Visiting contractors). In the rare instance when the department imposes a sanction to reimburse a HMG Early Intervention program participant, the contractor would incur the cost penalty imposed.

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.

The estimated cost of compliance is not for this particular rule, but with the entire Chapter of rules. The cost estimate is for personnel who will provide oversight and monitoring of the contractor's service providers. While this rule includes four different types of contractors, the ODH is estimating that one contract manager will be paid an average of \$40,000 per year for a proportion of their time (for EI System of Payment provider business office managers) to \$75,000 per year (for Home Visiting contractors).

(a) Personnel Costs

An average of \$75,000 for one FTE as contract manager who will provide oversight and monitoring of the contractor's compliance with OAC and contract, grant, or agreement. Depending on the size of the contry or contractor and its average number of program participants served, the percent of FTE needed is estimated to vary from .10 to 1.0 across the expected 88 Family & Children First Councils for Early Intervention; between .10 and 1.0 for the 100 Home Visiting contractors and between .10 and 1.0 for the 88 Centralized Coordination contractors.

(b) New Equipment or Other Capital Costs

Not applicable

(c) Operating Costs

Not applicable

(d) Any Indirect Central Service Costs

Not applicable

(e) Other Costs

Not applicable

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.

Through contracts, grants, or agreements, the ODH will be paying contractors for their services. This rule does not impose any new requirements. The requirements

were previously in another rule and not as clear as they are now.

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

Given that the contract, grant or agreement is voluntary and compensates those who enter into it, the impact on economic development is not applicable.