

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

Agency Name

Division

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**3701-8-07**

Rule Number

**NEW**

TYPE of rule filing

Rule Title/Tag Line

**Help me grow early intervention program eligibility and determination of need for early intervention services.****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 and changes in federal Early Intervention regulations.

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 3701-8-07 replaces, in part, 3701-8-03 and 3701-8-08. The new rule provides the criteria for eligibility into the Help Me Grow Early Intervention program for infants and toddlers with disabilities and/or developmental delays. These requirements come from the federal Individuals with Disabilities Education Act, Part C program (Help Me Grow Early Intervention) 34 C.F. R. Parts 300 and 303. The rule outlines procedures for screening child's development, determining eligibility for an evaluation and/or assessment to determine a child's need for early intervention services, requirements for family-directed assessment, and determination of eligibility for IFSP development. This rule also puts into place a process that individuals may request re-consideration of the determination of eligibility.

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. 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. The rule also mentions Department of Health (HEA) forms are 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: Added "within forty-five calendar days after program referral" to paragraph (B); added "using the required tools" to (B)(4)(b)(vi); and added "documentation sources to include more than just tool" on form HEA 8032; deleted (B)(5)(b) and combined with (B)(5)(a); and added clarifying language to paragraph (E).

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.

\$669,373.

The net impact is an increase in expenditures, due to the technical assistance, training, and monitoring which will need to be provided to the 88 counties delivering the Early Intervention program. Agency impact calculated with salary and fringe costs for six EI program consultants at 50% of their time and one program manager at 70% of time for the remaining year in this biennium. Additionally, the staff to monitor the contractors is estimated at 50% of three monitoring staff and 50% of the monitoring manager; and 100% of the time of one researcher. These expenditures will be supported with existing resources. Please also note that the funds provided through a grant to the 88 county Family & Children First Councils is provided in the RSFA for Rule 3701-8-07.1.

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

GRF DOH00A 440459

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:

Applicants (e.g., The administrative agents of Family & Children First Councils in all 88 counties) who elect to apply for the available funds will be those affected. The cost of compliance is staff time for oversight and monitoring to meet the requirements in the Chapter of rules as they apply to these 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 agreement requirements. Other costs include the increase from one licensed professional to two licensed professionals required to perform child assessment (unless an individual holds licenses in two different disciplines); although the frequency of assessment tool administration has been reduced by half.

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? **Yes**

Help Me Grow is a voluntary program, but requires a contract, grant, or agreement to participate and seek reimbursement. Moreover, in order to conduct evaluations or assessments on infants or toddlers to determine eligibility and/or need for early intervention services; an individual be licensed to perform the scope of services in accordance with Ohio law. That license may be in any of the following: counseling;

early childhood education, when licensed for ages three through eight, grades kindergarten through third, or in special education; early childhood mental health; early intervention; hearing impairment intervention; medicine; nursing; occupational therapy; physical therapy; psychology; psychiatry; social work; speech-language pathology; and visual impairment intervention.

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**

The department may take any of the actions listed in paragraph (B) of rule 3701-8-02.1 of the Administrative Code.

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

This rule requires reporting data into the statewide data system for Help Me Grow as a condition of compliance.

**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 cost of compliance is unknown because the cost of compliance depends the number of children being served by the county; the number of licensed staff available to conduct evaluations and assessments; the extent to which memorandums of agreement are in place with county Boards of Developmental Disabilities; whether those services are provided in-kind or for payment; and if service coordinators employed by the county are credentialed and able to serve families.

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 includes personnel to conduct evaluations and assessments; tool scoring sheets as needed; and postage or email access costs to send written notices.

(a) Personnel Costs

An estimated \$100,000 for one FTE licensed individual multiplied by the number of evaluators and/or assessors needed by each of Ohio's 88 counties to conduct the initial and ongoing evaluations and assessments required by Early Intervention federal law.

(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

Copying costs, when needed are impossible to quantify because they are upon request. Electronic scanning of the written notices of meetings and the prior written notices is an option, which requires the one-time cost of a scanner, but then eliminates copying and mailing costs.

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 requirements provided here are required by the federal Early Intervention regulations. The increase from one person to two to do assessments is new. The ODH has aligned the rule with federal regulations and eliminated using a tool every six months to try and off-set costs. The grantees enter into the contract voluntarily and are compensated for the grant deliverables; but federal and state dollars are not meant to fund the entire program (as evidenced by the 34 C.F.R. language 303.120) and local dollars have become scarce. This new requirement will impact counties who have not established MOUs, agreements, or other mechanisms in place to serve infants and toddlers beyond the source of funds provided by ODH.

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

This proposed rule is not expected to have an impact on economic development.