



Department of
Aging

Ted Strickland, Governor
Barbara E. Riley, Director

NOTICE

Revised August 19, 2010

On July 19, 2010, ODA conducted a public hearing to obtain comments concerning ODA's proposed rescission of a rule and adoption of new rule regarding the **emergency response service** of the **PASSPORT** program, as required by section 119.03 of the Revised Code.

On August 19, 2010, ODA refiled the rule with revisions. As a result, ODA plans to offer the public a subsequent opportunity to testify on the rule.

ODA will conduct a second public hearing on **September 2, 2010** in Conference Room A of the Department's offices at 50 W. Broad Street, **10th floor**; Columbus, OH 43215. The hearing will begin at **11:00AM** and will continue until all parties in attendance at that time have had an opportunity to provide comment.

RULE 173-39-02.6 Emergency response service.

ODA is proposing to replace the current rule with a new rule. In doing so, ODA has three goals:

1. To comply with the five-year review required under section 119.032 of the Revised Code.
2. To adopt rule on the emergency response service that is substantially similar to the requirements for providing an emergency response service under the rules of Department of Job and Family Services (JFS) and the Department of Developmental Disabilities (DoDD), which are also under development or may soon be under development.
 - a. The goal is to provide consistent requirements for providers among the three agencies' Medicaid waiver programs. The rule content was developed by a consolidation exploration team of the Executive Medicaid Management Agency (EMMA), which Governor Strickland created with Executive Order 2007-36S. ODA, JFS, and DoDD were part of that team.
 - b. Certainly, there are differences in the rules each agency will propose, but the content is substantially similar. One noticeable difference is that ODA's regulations on the service appear in a rule that regulates just one service and follows the format of other rules that ODA has proposed since Executive Order 2008-04S (see goal #3 below), while JFS' regulations on the service appear in a rule that regulates several services and follows the format of other JFS rules. (Look for JFS' proposed new language in paragraph (H) of rule 5101:3-46-04 of the Administrative Code.)
3. To comply with Governor Strickland's Executive Order 2008-04S: "Implementing Common Sense Business Regulation," which requires all state agencies to write easier-to-read and easier-to-comprehend rules to promote transparency in state regulations.
 - a. ODA complies with the executive order by:
 - i. Complying with Chapter 5 of the Legislative Service Commission's "Rule Drafting Manual," as found on http://www.lsc.state.oh.us/rules/rdm06_06.pdf

50 West Broad Street / 9th Floor
Columbus, OH 43215-3363
GoldenBuckeye.com

(614) 466-5500 Main
(614) 466-5741 Fax
(614) 466-6191 TTY

- ii. Incorporating recommendations from "Advanced Legal Drafting" by Bryan A. Garner (Dallas: LawProse, Inc. © 2007)
 - iii. Incorporating recommendations from "Plain English Writing Tips," as found on http://business.ohio.gov/docs/RegReform_PlainEnglishWritingTips.pdf.
- b. The result is language that:
- i. Generously uses descriptive sub-headings (e.g., "Set-up," "Emergency response center," "Units and rates") and divides topics in rules to fit under those sub-headings in order to enable readers to thumb through the rule
 - ii. Begins with general material that appeals to most rule readers (e.g., what a service does) and ends with specific material that appeals to fewer readers (e.g., provider qualifications, units of service)
 - iii. Uses the active voice in the present tense, not the passive voice (e.g., "shall be") and not the future tense (e.g., "will")
 - iv. Uses the singular, unless the plural is necessary
 - v. Replaces legalese with plain-English words

On August 19, 2010, ODA refiled this proposed new rule to:

1. Remove "in an emergency" from the last sentence of paragraph (A) of the rule, because an emergency response center intervenes when it receives an alarm signal from the ERS equipment regardless of whether the signal due to an emergency or non-emergency.
2. Replace "additional training" in paragraph (B)(1)(b)(ii) of the rule with "customer support," because upon-request training is more commonly called "customer support."
3. Clarify in paragraph (B)(1)(c)(i) of the rule that, in the process of developing a response plan, each consumer works with the provider and case manager to determine the protocol for responding to his or her alarm signals.
4. Add the exception ", other than emergency service personnel," after "The provider shall train every designated responder," in paragraph (B)(1)(c)(iv) of the rule because ODA does not expect the provider to train designated responders who are firefighters or EMTs.
5. Clarify in paragraph (B)(1)(c)(iv) of the rule that the upon-request training of the designated responder is customer support.
6. Combine the last sentence of paragraph (B)(1)(c)(iv) of the rule with paragraphs (B)(1)(c)(iv)(a) and (B)(1)(c)(iv)(b) of the rule because simply requiring "written instructions for responding to the consumer's alarm signals" should encompass how to handle a consumer's emergencies and non-emergencies.
7. Insert ", or sub-contract to provide staff," after "The provider shall employ staff" in paragraph (B)(2)(a) of the rule, because ODA does not intend to prohibit the practice of sub-contracting with another company for the provision of the emergency-response-center portion of the service.
8. Insert language in paragraph (B)(4)(b) of the rule to show that the training ODA expects of each staff member of an emergency response center is training "on responding to alarm signals."
9. Insert this sentence as a second sentence to paragraph (B)(4)(b) of the rule: "If a provider sub-contracts with another business to perform the emergency response center's duties, the provider shall obtain a record from that sub-contracted business that shows each staff member of the emergency response center has successfully completed training on responding to alarm signals."
10. Insert ", training, or customer support" after "incident" in paragraph (B)(6)(c)(iii) of the rule.

Any person may direct written comments or requests for information concerning the proposed actions to Tom Simmons at the Department on or before the date of the hearing by writing to tsimmons@age.state.oh.us.