



Department of
Aging

John Kasich, Governor
Stephanie M. Loucka, Director

PUBLIC HEARING NOTICE

ODA PROVIDER CERTIFICATION: INDEPENDENT LIVING ASSISTANCE

ODA will conduct a public hearing at the following place and time:

Ohio Department of Aging
246 N. High St., 1st Floor
Room 1149 (Training Room)
Columbus, OH 43215

Monday, Jun 12, 2017
11:00AM

The purpose of the hearing is to give interested parties an opportunity to comment upon ODA's proposed amendments to OAC173-39-02.15, which are described below.

OVERVIEW

OAC173-39-02.15 regulates providers when they provide independent living assistance (ILA) to individuals enrolled in the PASSPORT Program. ILA consists of a variety of telephone-support activities, in-person support activities, and travel-attendant activities outlined by paragraph (A).

ODA has conducted a 5-year review of the rule. ODA's proposed amendments would add clarity to the rule and update its terminology, but not add any requirements for ODA-certified ILA providers.

SPECIFIC AMENDMENTS

ODA proposes to delete a part of the definition of *ILA* in (A) stating *ILA consists of activities* because it unnecessarily duplicates another sentence in the rule explaining there are three types of ILA, all of which are *activities*.

ODA proposes to delete part of the definition of *ILA* in (A) stating the purpose of ILA is to *avoid institutionalization due to the loss of shelter or other essential environmental services*. That is a purpose for the PASSPORT Program and applies to every good or service provided to individuals enrolled in the program. Avoiding institutionalization does not need to be part of this definition or any definition of a good or service.

ODA proposes to delete a part of the definition of ILA in (A) allowing an aide to act as an individual's authorized representative. OAC173-39-02 prohibits this for any ODA-certified provider of any good or service. Likewise, ODA also proposes to delete language allowing in-person support activities to include *applying* for programs (i.e., on the individual's behalf) to *assisting the individual with applications* for programs. ODA also proposes inserting *or other public programs* to the list of programs.

The definition of ILA includes a list of in-person support activities. In (A)(2) of the list, ODA proposes to say these activities are done for individuals, then remove specific references to individuals (or, *consumers*) in the sub-paragraphs. ODA proposes to combine all the in-person support activities on banking into 1 example of in-person support activities. ODA proposes deleting *stock of* as it appeared before *needed groceries*. ODA also proposes allowing assistance with personal correspondence via email to qualify as an example of in-person support activity.

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ODA proposes to insert a paragraph that would function like a sub-heading to indicate where in the rule requirements for the provider begin. This merely adds clarity to the rule. All paragraphs occurring after this sub-heading would be indented underneath.

In (B) [now (C)(1)], ODA proposes to say a unit of service is 15 minutes of telephone-support activities, in-person support activities, or travel-attendant activities, not 15 minutes of *direct consumer service or completed phone call*. To align this rule with the standard format for other rules regulating services in OAC Chapter 173-39, the language now appears at the end of the rule with 2 informational paragraphs on where to find rates and rate-setting methodologies. Without the informational paragraphs, readers may not know that the rates and rate-setting methodology for ILA is determined by 2 different ODM rules.

ODA proposes to insert a general requirement to comply with the requirements for every ODA-certified provider in OAC173-39-02. Without this amendment, ODA-certified providers would still be required to comply, but may not be aware of the need to do so.

ODA proposes to delete requirements that duplicate requirements for all ODA-certified providers in OAC173-39-02.

For (C)(4) [now (B)(4)], ODA proposes to replace 1 paragraph functioning like a sub-heading, but without giving the topic of the paragraphs below, with a single-word subheading. In doing so, ODA does not create any new requirements. Instead, it should help providers by allowing them to thumb through the rule to find topics of concern (e.g., availability). The table below illustrates:

CURRENT RULE	AFTER PROPOSED AMENDMENTS
<p>Certified ILA providers must be able to document that they:</p> <ul style="list-style-type: none"> Have the capacity to delivery services five days per week.... Have a service back-up plan to ensure services are delivered during staff absence.... 	<p>Availability: The provider shall maintain adequate staffing levels to provide ILA five days per week and a back-up plan for providing ILA when the provider has no aide available.</p>

In (C)(5)(a)(v) [now (B)(5)(a)(v)], ODA proposes to replace a requirement to have the ability to *access transportation services required as appropriate*, which is confusing, to a requirement to have the ability to *provide travel-attendant activities*, which name of the activity defined in (A).

ODA proposes to update the language for the topics taught in orientation to indicate the provider must teach its expectations, ethical standards, personnel policies. For these topics, providers have flexibility to develop their own policies. ODA proposes to replace *employee code of conduct* with *ethical standards* to match language in OAC173-39-02. ODA also proposes to list *incident reporting* just before *emergency procedures*.

ODA proposes to move the requirement for continuing education from a location after personnel qualifications to a location after orientation.

ODA proposes to add subheadings to many paragraphs to enable providers to find topics more easily. Examples are *Personnel requirements*, *Supervision*, *Orientation*, and *Continuing education*.

ODA also proposes basic terminology amendments, including the following:

- Adding *ODA provider certification* to the beginning of the rule's title.
- Replacing uses of *consumers* with *individuals*.
- Consistently referring to *individuals* in the plural throughout the definition of ILA and its activities.
- Consistently using *activities*, not *services*, to refer to ILA activities, because ILA is a service comprised of different activities.
- Removing the unnecessary occurrences of *and* in paragraph (A).
- Removing unnecessary occurrences of *that*.
- Inserting *their* before *business and personal correspondence, medical and other appointments, errands and other activities, and homes* to clarify that ILA staff help individuals, not others, in these matters.

- Replacing the run-on-sentence-format in paragraph (A) with a bullet-point-like-format (i.e., *one or more of the following*, replacing semicolons with periods in lists.)
- Replacing uses of *must* with *shall*.
- Replacing *capacity* with *availability*.
- Replacing uses of *deliver* with *provide*.
- Replacing *prior to* with *before*.
- Replacing *(heap)* with *(HEAP)*.
- Replacing *long-term care agency providers* with *ODA-certified agency providers*.
- Replacing *Consumer record contents* with *Records*.
- Replacing *economics/nutrition or dietetics,... with economics, nutrition/dietetics,....*
- Replacing *experience in the provision of social services* with *providing social services*.

Any person may participate in the public hearing. To submit written testimony to ODA regarding the rule projects in lieu of presenting written testimony in person, please email the written testimony to ODA's policy development manager, Tom Simmons, at tsimmons@age.ohio.gov **before** Monday, May 8, 2017.

Participants may find area parking at street meters and area parking garages. The parking meters on Chestnut St. accept debit and credit cards and cost \$1.50 per 2 hours. The [Chestnut Street Garage](#) at 44 E. Chestnut St. is across the street from the side of 246 N. High St.