

CSI - Ohio

The Common Sense Initiative

Business Impact Analysis

Agency Name: OHIO DEPARTMENT OF AGING

Package Title: ODA PROVIDER CERTIFICATION: PERSONAL EMERGENCY RESPONSE SYSTEMS

Rule Number: 173-39-02.6

Date: February 24, 2017, Revised March 20, 2017

Rule Types:

- ☒ 5-Year Review
- ☐ Rescinded
- ☐ New
- ☒ Amended
- ☐ No change

The Common Sense Initiative was established by Executive Order 2011-01K and placed within the Office of the Lieutenant Governor. Under the CSI Initiative, agencies should balance the critical objectives of all regulations with the costs of compliance by the regulated parties. Agencies should promote transparency, consistency, predictability, and flexibility in regulatory activities. Agencies should prioritize compliance over punishment, and to that end, should utilize plain language in the development of regulations.

Regulatory Intent

1. Please briefly describe the regulations in plain language.

Please include the key provisions of the regulation as well as any proposed amendments.

OVERVIEW

OAC173-39-02.6 regulates providers when they provide personal emergency response systems (PERS) to individuals enrolled in the PASSPORT Program. ODA proposes to amend the rule as part of this review.

SPECIFIC AMENDMENTS

ODA proposes the following amendments:

- **ON PERS TERMINOLOGY**

- Throughout the rule, ODA proposes to replace “emergency response service” and “ERS” with “personal emergency response system” and “PERS.” This terminology update will allow ODA to achieve the following:
 - ODA’s rule will be aligned with CMS’ taxonomy for Medicaid waiver applications.

77 SOUTH HIGH STREET | 30TH FLOOR | COLUMBUS, OHIO 43215-6117

CSIOhio@governor.ohio.gov

- ODA's rule will be aligned with terminology similar to terminology Ohio submitted on the August, 2016 Medicaid waiver application for the PASSPORT Program. The application uses "emergency response system," then immediately acknowledges the service matches CMS' HCBS taxonomy for 14010, which is a "*personal* emergency response system." The waiver application also uses "emergency response services" and "personal emergency response system service" interchangeably.
 - ODA's rule will be aligned with industry-standard terminology.
 - ODA's rule will use the term 100% of surveyed providers supported
 - ODA's rule will no longer contain the misleading term "emergency response service," which has caused some to mistake PERS for a service that only contacts 911.
- Throughout the rule, ODA proposes to replace "emergency response center" and "center" with "central monitoring station" and "station." In doing so, ODA will be using industry-standard terminology but also eliminating another reason some mistake PERS for a service that only contacts 911.
 - ODA proposes to remove the 2nd sentence from the definition of "PERS" because it refers to emergencies. A central monitoring station must respond to an individual's alarm signal regardless of whether the signal is due to an emergency or non-emergency.
 - ODA proposes to move the definition of "designated responder" from (D) to (A) and shorten the term to "responder" to avoid occurrences of "...designates a designated responder." ODA also proposes to add "a person or organization identified in an individual's response plan" to the definition.
 - For more general terminology, see "General Terminology Updates" below.
 - **NEUTRAL EFFECT ON ADVERSE IMPACT**
- **ON PERS EQUIPMENT**
 - ODA proposes to add "and preferences" after "needs" in (B)(2)(a)(i) to ensure the equipment providers offer individuals match their preferences, which are intimately tied to their needs. For example, if an individual prefers to bathe, not shower, their need for higher levels of water-resistant equipment increase. **NEUTRAL EFFECT ON ADVERSE IMPACT**
 - ODA proposes to replace "service plan" in (B)(2)(a)(i) of the current rule with "person-centered services plan." "Person-centered services plan" is defined in OAC173-39-01. **NEUTRAL EFFECT ON ADVERSE IMPACT**
 - ODA proposes to delete paragraphs (B)(2)(a)(ii) and (B)(2)(a)(iii) because paragraph (B)(1)(a)(i) applies to every individual, even those whose person-centered services plans call for PERS for individuals with hearing or vision impairments. There is no need to separately list 2 of the many possibilities. **NEUTRAL EFFECT ON ADVERSE IMPACT**
 - ODA proposes *increasing* product options for individuals by *reducing* the requirements for water resistance in remote-activation devices from "waterproof" with an exception in (B)(2)(a)(ii)(b) to "water-resistant to a level meeting generally-accepted industry standards for the level required to meet the individual's needs and preferences." **REDUCES ADVERSE IMPACT**
 - ODA proposes deleting the grandfathering clause in (B)(2)(iii) for PERS equipment installed before 2011. ODA added the grandfathering clause to the 2011 rule at the request of 1 provider. Since ODA adopted the 2011 rule, the provider, a hospital, filed for bankruptcy and was purchased by a hospital chain that did not continue using the equipment and is not presently certified by ODA to provide PERS. Therefore, there may no longer be a need for the grandfathering clause. (See ODA's response to #8 of this BIA for a provider survey on this topic.) **NEUTRAL EFFECT ON ADVERSE IMPACT**

- **ON TRAINING INDIVIDUALS:**

- ODA proposes replacing “an initial face-to-face demonstration and training on how to use the ERS equipment” in (B)(2)(b)(i) of current rule with “a face-to-face demonstration on using PERS equipment and the individual shall successfully indicate he or she is capable of using the equipment by return demonstration.” **NEUTRAL EFFECT ON ADVERSE IMPACT.**¹
- The current version of (B)(2)(b)(i) implies initial training is part of the unit of PERS installation. ODA proposes to explicitly state the matter. **NEUTRAL EFFECT ON ADVERSE IMPACT.**²

- **ON RESPONSE PLANS:** Throughout the paragraphs under (B)(2)(c), ODA proposes replacing “individuals” when referring to responders to “any person or organization.” ODA also proposes to use the verb “designate” when a consumer designates a person or organization to be a responder. Instead of saying “...receives notice that the responder ceases to participate,” ODA proposes saying, “...is aware the responder stopped participating,” because a person may stop participating without delivering a notice. **NEUTRAL EFFECT ON ADVERSE IMPACT**

- **ON TRAINING RESPONDERS:**

- ODA proposes to move the requirement to train responders from the response plan requirements under (B)(2)(c) to (B)(2)(d). **NEUTRAL EFFECT ON ADVERSE IMPACT**
- ODA currently requires providers to offer training to all designated responders, including responders who are emergency service professionals (e.g., firefighters or EMTs). In (B)(2)(d), ODA proposes to no longer requires training emergency service professionals to respond to alarm signals. **REDUCES ADVERSE IMPACT**
- ODA proposes replacing “follow-up training” in (C)(1) with “additional training” to correspond with in (B)(2)(d). **NEUTRAL EFFECT ON ADVERSE IMPACT**

- **ON CENTRAL MONITORING STATION**

- ODA proposes adding a prohibition in (B)(3)(a) against providers using central monitoring stations located outside the United States. This would not be a new prohibition. Governor Kasich’s Executive Order 2011-12K has required domestic call centers since 2011. When the executive order took effect, ODA surveyed providers, finding zero of them to use offshore call centers. **EFFECT ON ADVERSE IMPACT ON PROVIDERS = NONE.**
- ODA proposes moving (B)(4)(b) from the requirements under “provider qualifications” to the requirements for “central monitoring stations.” In the amended rule, it is (B)(3)(b). In (B)(4)(b), ODA currently requires training “*each staff member* of its emergency response center” (i.e., central monitoring station) without exception. In (B)(3)(b), ODA proposes to only require providers to train *employees whose job duties include responding to alarm signals* and to only require training on responding to alarm signals. Other job positions would not require such training if their job duties never include responding to alarm signals. **EFFECT ON ADVERSE IMPACT ON PROVIDERS = REDUCED.**

- **OTHER:**

- ODA proposes deleting a requirement on not offering PERS unless ordered to do so in the service order or services plan. This duplicates a requirement for every ODA-certified provider in OAC173-39-02. **EFFECT ON ADVERSE IMPACT ON PROVIDERS = NONE.**

¹ The effect on the rule’s adverse impact on providers would be none, except for a provider who installs and bills for PERS without first checking to see if the individual is able to use PERS. If an individual is unable to use PERS, its value is limited.

² In both the current and proposed amended rules, after the first full month of service, a provider could bill for PERS installation and monthly PERS. The amendment clarifies some provider responsibilities in the rule are part of the PERS installation and could be billed separately from monthly PERS.

- ODA proposes deleting the limitation against providers providing PERS to individuals if also receiving a similar service under OAC Chapter 173-39 because there is no similar service under the Chapter. **EFFECT ON ADVERSE IMPACT ON PROVIDERS = NONE.**
- ODA proposes clarifying under (C) what is considered a unit of PERS installation vs. monthly. **EFFECT ON ADVERSE IMPACT ON PROVIDERS = NONE.**
- **GENERAL TERMINOLOGY UPDATES:** ODA proposes to make non-substantive updates to the rules as part of a strategy to systematically update the terminology in all ODA rules. This includes using standardized service verification language, updating references to ODM rules, and adding a standardized reference to OAC5160-31-07. As previously mentioned, ODA also plans to standardize general terminology (e.g., “individual,” “ODA’s designee,” and “provide,” not “consumer,” “PAA,” or “furnish”). **EFFECT ON ADVERSE IMPACT ON PROVIDERS = NONE.**

2. Please list the Ohio statute authorizing the Agency to adopt these regulations.

ORC §§ [173.01](#), [173.02](#), [173.391](#), [173.52](#), and [173.522](#).

3. Does the regulation implement a federal requirement? Is the proposed regulation being adopted or amended to enable the state to obtain or maintain approval to administer and enforce a federal law or to participate in a federal program?

If yes, please briefly explain the source and substance of the federal requirement.

In Ohio’s application to the Centers for Medicare and Medicaid Services (CMS) for a waiver to authorize the Medicaid-funded component of the PASSPORT Program, Ohio indicated it adopted a rule on PERS and cited OAC173-39-02.6 (“the rule”). Because CMS authorized a waiver that included PERS, as regulated by the rule, the state is responsible for maintaining the rule.

4. If the regulation includes provisions not specifically required by the federal government, please explain the rationale for exceeding the federal requirement.

ODA is not exceeding any federal requirements.

5. What is the public purpose for this regulation (i.e., why does the Agency feel that there needs to be any regulation in this area at all)?

The rule exists to comply with the state laws ODA listed in its response to BIA question #2, especially ORC§173.391.

6. How will the Agency measure the success of this regulation in terms of outputs and/or outcomes?

ODA and its designees will monitor the providers for compliance.

Development of the Regulation

7. Please list the stakeholders included by the Agency in the development or initial review of the draft regulation.

If applicable, please include the date and medium by which the stakeholders were initially contacted.

On October 19, 2016, ODA surveyed 28 PERS providers regarding OAC173-39-02.6.

On December 5, 2016, ODA surveyed 8 PERS providers to see if any were using equipment operating with internal batteries lasting less than 24 hours without recharging.

On January 25 and February 22, 2017, ODA and the Ohio Dept. of Medicaid (ODM) hosted the HCBS Rules Workgroup to which 18 providers were invited.

8. What input was provided by the stakeholders, and how did that input affect the draft regulation being proposed by the Agency?

On October 19, 2016, ODA surveyed 28 PERS providers regarding OAC173-39-02.6.

- **Demographics:**
 - 28 providers surveyed.
 - 17, or 61% responded.
 - The respondents included both large and small operations.
 - The respondents represented a variety of business models for PERS providers, including providers whose primary business is PERS and others whose primary business is electronics, alarm systems, a hospital, nursing homes, medical transportation, home health care, or home-delivered meals.
- **Are your remote activation devices waterproof, water-resistant, or neither?**
 - 76% of respondents said their products were waterproof.
 - 19% said their products were water resistant.
 - 5% said they use *both* waterproof and water-resistant products.
 - 0% said “neither.”
 - Providers who said “water-resistant,” said water-resistant to a depth of 1 meter for 30 minutes, which is the same standard others used for “waterproof.”
- **How do you know if your remote activation devices are waterproof?**
 - 65% of respondents relied upon the manufacturer’s claims.
 - 17.5% relied upon testing (they probably also developed their own products)
 - 17.5% didn’t answer this question.
- **To avoid confusion with a service that calls “911,” ODA is likely to use “Personal Emergency Response System” and “PERS” in the rule instead of “Emergency Response Service” and “ERS.” For the same reason, ODA is likely to use “Central Monitoring Station” instead of “Emergency Response Center.” Are these good ideas?** 100% of respondents said “yes.” 1 respondent suggested that individuals like “emergency response center” because they believe emergency personnel are waiting to help them 24/7/365. However, the medical-transportation provider correctly said it’s a monitoring center that can contact the emergency response center (e.g., “911”) in case of a true emergency. Calling it “emergency response center” is misleading. 1 provider suggested just calling it a “monitoring center.”
- **Do you have any recommendations for improving the rule?**
 - **Recommendation:** ODA should no longer require all wearable PERS equipment to be waterproof because the industry is rapidly changing to cellular-only units which offer better service, but are only water-resistant. Another provider said the number of homes with land lines and home-security systems is declining each year, so the future of PERS is 100% cellular.
ODA’s Response: ODA proposes to allow water-resistant equipment if the provider’s equipment is resistant to low-pressure jets of water coming from all directions, but also allow for higher standards of water resistance.
 - **Recommendation:** 1 provider advised ODA to amend the rule to prohibit providers from installing land-line-based PERS into homes if the individual’s phone service is shut off. Such an individual needs a cellular unit.
ODA’s Response: This would be covered under the umbrella of the requirement for providers to offer PERS equipment to each individual according to the individual’s specific needs, as identified in the individual’s person-centered services plan.
 - **Recommendation:** ODA should require all providers to only use UL listed PERS equipment.

ODA's Response: ODA also received a similar recommendation in 2010. ODA's response at that time is the same as today. ODA pays providers for providing PERS according to the rule, not according to standards established outside of ODA's control and to which ODA nor the public may freely access and which ODA does not intend to incorporate by reference into the rule. Additionally, ODA is not trying to pick the "winners" and "losers" among the various technology platforms currently able to provide PERS according to the rule.

- **Recommendation:** ODA should eliminate the requirement for providers to offer annual training to designated responders.

ODA's Response: At this time, ODA proposes retaining the requirement to preserve the safety of the individual. Unlike the initial training for the individual, ODA does not require the additional training offered to responders be in person. It could be in the form of an email, a video, written literature, etc.

- **Recommendation:** MyCare doesn't give individuals their choice of willing and qualified providers.

ODA's Response: ODA doesn't regulate such a matter for the MyCare Ohio program. ODA recommends contacting ODM.

On December 5, 2016, ODA surveyed 8 PERS providers to see if any were using equipment operating with internal batteries lasting less than 24 hours without recharging. 5 providers responded. All 5 providers said their equipment operated with internal batteries lasting longer than 24 hours.

Participation in the the January 25, 2017 HCBS Rules Workgroup came from both (1) providers with PERS as their primary line of business and (2) providers with PERS as a secondary line of business. In the workgroup, ODM would mention a possible requirement in the rule, then ask stakeholders if they any concern with the requirement. If so, ODM discussed the concern. If not ODM moved on the the next requirement in the rule.

Providers raised no concerns about requirements in that meeting that are found in ODA's proposed amended rule, including the following:

- Replacing requirements for equipment to be waterproof with requirements for equipment to meet generally-accepted industry standards for water resistance based upon the needs and preferences of the individual.
- Requiring providers to offer individuals options for remote activation devices from which they may choose. This is required by both the current and proposed amended rules.
- Requiring in-person demonstrations by the provider with return demonstrations from the individual on using PERS equipment. Requiring a successful return demonstration from the individual is new to the rule. Return demonstration ensures PERS would be effective for the individual.

At the February 22, 2017 HCBS Rules Workgroup, ODM continued mentioning each possible requirement in the rule one at a time, then ask stakeholders if they any concern with the requirement. If so, ODM discussed the concern. If not ODM moved on the the next requirement in the rule.

Providers requested an explanation of "return demonstration," to which ODA gave one explaining it's a common term in clinical work referring to a demonstration of how to do something by the person just trained to do so. Providers raised concerns over language requiring the operation of free lines. It's misleading, they said, because the individuals pay for their own phone lines (for models operating on land lines). ODM and ODA agreed to consider removing it from the rule. Provider's raised concerns over ODM's idea to add reporting requirements to "false alarms," and to define the term. Providers said they already categorized their calls and the most common call—checking in to see if the system works—isn't regarded by them as a false alarm, but a good idea. ODM said it would consider removing the requirement from its rule. It doesn't appear in ODA's proposed rule amendments.

ODA conducted an online public-comment period from February 24 to March 12. During this time, ODA received only one comment, which ODA lists in the table on the next page.

SUGGESTION	ODA's RESPONSE
<p>I just had a follow up comment to one of the recommendations that were made [by a provider] but not adopted [by ODA].</p> <p>In regards to a recommendation that all providers use UL listed PERS equipment. If that recommendation is ever adopted it should be expanded to include ETL listed equipment. It is body that certifies equipment at the same standards but many manufacturers are using ETL as opposed to UL because of an easier less costly process to gain certification.</p> <p><i>Kevin Kyburz of HealthCom, Inc.</i></p>	<p>ODA does not intend to require meeting UL standards, so there is no need to allow ETL as alternative to UL in this rule.</p> <p>As noted earlier, ODA pays providers for providing PERS according to the rule, not according to standards established outside of ODA's control and to which ODA nor the public may freely access and which ODA does not intend to incorporate by reference into the rule. Additionally, ODA is not trying to pick the "winners" and "losers" among the various technology platforms currently able to provide PERS according to the rule.</p>

9. What scientific data was used to develop the rule or the measurable outcomes of the rule? How does this data support the regulation being proposed?

ODA is not proposing to amend the rules based upon scientific data.

10. What alternative regulations (or specific provisions within the regulation) did the Agency consider, and why did it determine that these alternatives were not appropriate? If none, why didn't the Agency consider regulatory alternatives?

ODA did not consider any alternative regulations.

11. Did the Agency specifically consider a performance-based regulation? Please explain. *Performance-based regulations define the required outcome, but don't dictate the process the regulated stakeholders must use to achieve compliance.*

ODA did not consider performance-based regulations when considering whether to amend this rule.

12. What measures did the Agency take to ensure that this regulation does not duplicate an existing Ohio regulation?

ORC§[173.391](#) only authorizes ODA (i.e., not any other state agency) to develop requirements for ODA-certified providers of goods and services to individuals who are enrolled in ODA-administered programs.

13. Please describe the Agency's plan for implementation of the regulation, including any measures to ensure that the regulation is applied consistently and predictably for the regulated community.

Before the rules would take effect, ODA will post them on ODA's [website](#). ODA also sends an email to subscribers of our rule-notification service to feature the rules.

Through its regular monitoring activities, ODA and its designees will monitor providers for compliance. OAC[173-39-02](#) requires all providers to allow ODA and its designees to monitor.

Adverse Impact to Business

14. Provide a summary of the estimated cost of compliance with the rule. Specifically, please do the following:

a. Identify the scope of the impacted business community;

In 2016, 61 ODA-certified providers were billing the PASSPORT Program for providing PERS.³

b. Identify the nature of the adverse impact (e.g., license fees, fines, employer time for compliance); and

- **OVERALL:** In response to ODA's October 19, 2016 survey, one provider said ODA's rules were generally standard requirements found in other states.
- **ON PERS EQUIPMENT:** The current and proposed amended rules both require providers to supply, and sometimes, replace PERS equipment. The proposed new rule does not add any requirements that would increase the adverse impact. One amendment to replace requirements for waterproof equipment with water-resistant equipment would reduce the adverse impact on providers.

The proposed deletion of the grandfather clause from the 24-hour battery-life requirement should create no adverse impact to providers. In 2010, only 1 provider stated it was using equipment with batteries that would not last for 24 hours without recharging or replacing. Since the current rule took effect in 2011, the provider is no longer in business. Additionally, a December 5 survey of providers confirms today's providers are using equipment with adequate battery life.

- **TRAINING:** The current and proposed new rules both require providers to train individuals in-person on using PERS equipment, to train designated responders, and to train central monitoring station employees. ODA proposes to no longer requires providers to train emergency service personnel on how to respond to alarm signals when the emergency service personnel are listed in a response plan as responders. This is an adverse impact reduction.
- **ON CENTRAL MONITORING STATIONS:** The current and proposed new rules both require providers to have central monitoring stations. ODA proposes no longer requiring providers to train employees working at central monitoring stations whose job duties don't include responding to alarm signals. This is another adverse impact reduction.

c. Quantify the expected adverse impact from the regulation.

The adverse impact can be quantified in terms of dollars, hours to comply, or other factors; and may be estimated for the entire regulated population or for a "representative business." Please include the source for your information/estimated impact.

On average, for installing PERS into a home, in 2015, providers billed the PASSPORT Program for \$28.25 in 2015 and \$28.46 in 2016. On average, for monthly PERS, providers billed the program for \$27.48 in 2015 and \$27.76 in 2016. This implies that providers, on average, estimate the total cost of complying with the rule similarly.

[Appendix A](#) to OAC5160-1-06.1 establishes the maximum-allowable payments of Medicaid funds the PASSPORT Program would make. In the table on the next page, ODA compares the maximum-allowable payment rates to the average rates billed by providers.

³ Providers having more than one provider number were only counted once.

2015		
PERSONAL EMERGENCY RESPONSE SYSTEMS	MAXIMUM-ALLOWABLE PAYMENT RATE	AVERAGE PROVIDER BILL
PERS Installation	\$31.35	\$28.25
Monthly PERS	\$31.78	\$27.48

2016		
PERSONAL EMERGENCY RESPONSE SYSTEMS	MAXIMUM-ALLOWABLE PAYMENT RATE	AVERAGE PROVIDER BILL
PERS Installation	\$31.35	\$28.46
Monthly PERS	\$31.78	\$27.76

To be effective, PERS requires equipment, training individuals to use the equipment, response plans, training for responders, central monitoring stations, and training for employees responding to alarm signals. Without having the ability to change the maximum-allowable rates providers can bill for PERS,⁴ ODA is proposing to amend the rule with a resulting lower adverse impact on providers.

15. Why did the Agency determine that the regulatory intent justifies the adverse impact to the regulated business community?

ODA is not impacting providers with burdens they would not face in the normal course of duty. Instead, ODA is proposing to amend the rule in a way resulting in a *reduced* adverse impact upon providers.

Regulatory Flexibility

16. Does the regulation provide any exemptions or alternative means of compliance for small businesses? Please explain.

The rules treat all providers the same, regardless of their size.

17. How will the agency apply Ohio Revised Code section 119.14 (waiver of fines and penalties for paperwork violations and first-time offenders) into implementation of the regulation?

ORC§[119.14](#) establishes the exemption for small businesses from penalties for first-time paperwork violations.

18. What resources are available to assist small businesses with compliance of the regulation?

ODA does not discriminate between providers based upon the size of their business or organization. Providers regulated by this rule are typically small businesses according to ORC§119.14. ODA (and its designees) are available to help providers of all sizes with their questions. Any person may contact [Tom Simmons](#), ODA's policy development manager, with questions about the rule.

Additionally, ODA maintains an [online rules library](#) to help providers find rules regulating them. Providers may access the online library 24 hours per day, 365 days per year.

⁴ Rates are under ODM's jurisdiction.

Rule Draft as Published During The Online Public-Comment Period
*** DRAFT - NOT YET FILED ***

173-39-02.6

ODA provider certification: personal Emergency emergency response service system.

(A) Definitions for this rule:

~~(A)(1)~~ "Personal Emergency emergency response service system" ("ERS" "PERS") means ~~an~~ a personal emergency intervention service comprised of telecommunications equipment ("~~ERS~~ PERS equipment"), ~~an emergency response center~~ a station, and a medium for two-way, hands-free communication between the ~~consumer~~ individual and the ~~emergency response center station~~. ~~Personnel at the emergency response center intervene in an emergency when the center receives an alarm signal from the ERS equipment.~~ ERS PERS does not include the following:

~~(1)(a)~~ Remote video monitoring (e.g., granny cam, closed circuit television);
or,

~~(2)(b)~~ Equipment such as a boundary alarm, a medication dispenser, a medication reminder, or any other equipment or home medical equipment, regardless of whether the equipment is connected to ERS PERS equipment.

(2) "Responder" means a person or organization identified in an individual's response plan as the person or organization the station shall contact if the individual signals an alarm and requires assistance from the responder.

(3) "Station" means "central monitoring station."

~~(B) Minimum requirement for ERS in addition to the conditions of participation under rule 173-39-02 of the Administrative Code:~~

(B) Every ODA-certified provider of PERS shall comply with the following requirements:

(1) General requirements: The provider shall comply with the requirements for every ODA-certified agency provider in rule 173-39-02 of the Administrative Code.

~~(1)(2)~~ Set-up:

(a) ~~ERS~~ PERS equipment:

(i) The provider shall assure ~~that~~ each ~~consumer~~ individual is able to choose the equipment ~~that meets~~ meeting ~~his or her~~ the individual's specific needs and preferences, as authorized ~~on~~ in

his or her person-centered ~~service~~ services plan.

~~(ii) The provider shall only offer a consumer equipment that provides voice-to-voice communication, unless the consumer is hearing impaired. The provider shall offer a consumer who is hearing impaired equipment with a visual signal.~~

~~(iii) If a consumer is visually impaired, the provider shall only offer the consumer equipment with an audible signal.~~

~~(iv)~~(ii) The provider shall offer each ~~consumer~~ individual a variety of remote activation devices from which the ~~consumer~~ individual may choose according to ~~his or her~~ the individual's specific needs and preferences, so long as each remote activation device ~~is wearable and waterproof, unless the consumer requires a specialty activation device that is not wearable and waterproof to accommodate his or her specific need.~~ meets the following characteristics:

(a) Wearable, unless the individual requires a non-wearable device to accommodate his or her specific needs and preferences.

(b) Water-resistant to a level meeting generally-accepted industry standards for the level required to meet the individual's specific needs and preferences.

~~(v)~~(iii) ~~For any equipment the provider installs on or after January 1, 2011, the~~ The provider shall only install equipment ~~that has~~ with an internal battery ~~that provides~~ providing at least twenty-four hours of power without recharging ~~and that~~ which also sends notification to the ~~emergency response center~~ central monitoring station if the battery's power level is low.

(b) Training individuals:

(i) Initial training: ~~The~~ Before activating PERS for an individual, the provider shall ~~furnish~~ provide ~~each ERS consumer~~ the individual with ~~an initial~~ a face-to-face demonstration ~~and training~~ on how to use the using ERS PERS equipment ~~and the individual shall successfully indicate he or she is capable of using the equipment by return demonstration. This initial training is part of the unit of PERS installation.~~

- (ii) Additional training: ~~As part of the monthly service, the~~ After activating PERS for the individual the provider shall provide additional training to the ~~consumer~~ individual, caregiver, ODA, or ~~PAA~~ ODA's designee upon ~~the~~ request of one or more of those parties. This additional training is part of the unit of monthly PERS.

(c) Response plan:

- (i) The provider shall work with the ~~consumer~~ individual and the ~~consumer's~~ individual's case manager to develop a written response plan regarding how to proceed if the ~~consumer~~ individual signals an alarm. The plan shall include a summary of the consumer's health history, the consumer's functioning level, and the name of, and contact information for, ~~individuals~~ any person or organization the ~~consumer~~ individual ~~chooses~~ designates as his or her ~~designated~~ responders. If the ~~consumer~~ individual designates only one ~~individual~~ responder, then the provider shall also designate emergency service personnel as a back-up responder.
- (ii) The provider shall update the written response plan ~~no less often than~~ at least once every six months.
- (iii) The provider shall retain ~~a record~~ records of the initial response plan, and all subsequent response plans.
- ~~(iv) The provider shall train every designated responder before activating the ERS equipment, on an annual basis, and upon request. This training is part of the monthly service. At a minimum, the training shall include:~~
- ~~(a) Instructions for responding to an emergency, including instructions for contacting emergency service personnel; and,~~
- ~~(b) Written instructions for responding to the consumer's alarm signals.~~
- ~~(v)~~(iv) If ~~a consumer's~~ an individual's ~~designated~~ responder ~~ceases to participate~~ stops participating, the provider shall work with the ~~consumer~~ individual and ~~the consumer's case manager~~ ODA's designee to replace the responder and ~~revise~~ update the written

response plan as follows:

- (a) If the ~~consumer individual~~ had designated only one ~~designated person or organization to be a~~ responder, the provider shall replace ~~that the~~ responder in fewer than four days after it ~~receives notice that is aware~~ the responder ~~ceases to participate~~ stopped participating.
 - (b) If the ~~consumer individual~~ had designated two or more ~~designated persons or organizations to be~~ responders, the provider shall replace the responder in fewer than seven days after it ~~receives notice that is aware~~ the responder ~~ceases to participate~~ stopped participating.
 - (c) If the provider, individual, and ODA's designee ~~is~~ are unable to ~~replace~~ secure a replacement responder, ~~it the provider~~ shall ~~notify the case manager and~~ immediately designate emergency service personnel as the responder.
 - (d) Anytime ~~The~~ the provider, individual, and ODA's designee designate a replacement responder, the provider shall ~~record~~ immediately update the individual's response plan with the name and contact information ~~for any of the~~ replacement responder ~~in the response plan~~.
- (d) Training responders: At a minimum, the training shall include written instructions for responding to the individual's alarm signals.
- (i) Initial training: Before activating PERS for an individual, the provider shall provide initial training on responding to the individual's alarm signals to every responder, other than emergency service personnel. This training is part of a unit of PERS installation.
 - (ii) Additional training: After activating PERS for an individual, the provider shall offer additional training on responding to the individual's alarm signals to every responder, other than emergency service personnel, at least annually and any time requested by the responder, individual, ODA, or ODA's designee. This training is part of a unit of monthly PERS.

~~(2)(3) Emergency response center~~ Central monitoring station (station):

- (a) The provider shall employ staff to comprise ~~an emergency response center~~ a station located in the United States, or may sub-contract with another company located in the United States to provide the station component of the service.
- (b) The provider shall train each staff member in the station whose job duties include responding to alarm signals on responding to alarm signals and retain a record of each staff member's successful completion of the training. If a provider sub-contracts with another business to perform the station's duties, the provider shall obtain a record from the sub-contracted business to verify that each staff member of the sub-contracted business's station whose job duties include responding to alarm signals has successfully completed training on responding to alarm signals.
- ~~(b)~~(c) The ~~center~~ station shall receive and respond to alarm signals from ~~consumers~~ individuals twenty-four hours per day, three hundred sixty-five days per year.
- ~~(e)~~(d) The ~~center~~ station shall maintain the ~~capacity~~ ability to respond to all alarm signals.
- ~~(d)~~(e) The ~~center~~ station shall maintain a secondary ~~capacity~~ station to respond to all incoming alarm signals in case the primary system is unable to respond to alarm signals.
- ~~(e)~~(f) The ~~center~~ station shall respond to each alarm signal no more than sixty seconds after it receives the signal.
- ~~(f)~~(g) The ~~center~~ station shall notify ~~the PAA~~ ODA's designee of any emergency involving ~~a consumer~~ an individual no more than twenty four hours after the ~~consumer~~ individual sends the alarm signal.
- ~~(g)~~(h) The ~~center~~ station shall conduct monthly testing of each ~~consumer's~~ individual's ERS PERS equipment to ensure proper operation. The provider shall retain a record of the ~~monthly testing that includes the~~ date, time, and results of the each test.
- ~~(h)~~(i) If ~~a consumer~~ an individual sends an alarm signal but the ~~center~~ station cannot reach a designated responder, the ~~center~~ station shall contact emergency service personnel.

- (i)(j) If ~~a consumer~~ an individual sends an alarm signal, the ~~center~~ station shall remain in communication with the ~~consumer~~ individual through the two-way communications feature of the ~~ERS PERS~~ equipment until a designated responder arrives in the ~~consumer's~~ individual's home, until the emergency service personnel arrives in the ~~consumer's~~ individual's home, ~~or~~ until the emergency subsides, or after it determines that there is no emergency (e.g., a false alarm).
- (i)(k) The provider shall ~~operate all ERS lines free of charge~~ not charge the individual for using lines of communication or transmission. These expenses are part of the unit of monthly PERS.
- (3)(4) Replacement equipment: At no additional cost to the ~~consumer, individual,~~ ODA, or ~~the PAA~~ ODA's designee, the provider shall replace any malfunctioning ~~ERS PERS~~ equipment in fewer than twenty-four hours after it is notified of the malfunction or in fewer than twenty-four hours after the malfunction is detected through the monthly testing of equipment, unless the malfunction is due to the individual's confirmed misuse, abuse, or negligence of the equipment.
- (4) ~~Provider qualifications:~~
- (a) ~~Only an agency that ODA certifies as an agency provider may provide the service.~~
- (b) ~~The provider shall train each staff member of its emergency response center and retain a record that each staff member has successfully completed the training.~~
- (5) ~~Limitations:~~
- (a) ~~The provider shall only bill the PAA for the service provided under the PASSPORT program if the case manager identifies the provider in the service order for the consumer.~~
- (b) ~~The provider shall provide the service only to a consumer whose case manager identifies the provider in the consumer's service plan.~~
- (c) ~~The provider shall not provide the service to a consumer if the consumer is receiving a similar service under Chapter 173-39 of the Administrative Code.~~
- (6)(5) Service verification:

- (a) The provider shall retain a record of ~~the case manager's~~ ODA's designee's service order for PERS.
- (b) For PERS installation, the provider shall verify whether the installation was successful, ~~the initial face-to-face demonstration and~~ training was provided to the individual on ~~how to use the ERS~~ using PERS equipment, initial response plan made, initial training was provided for responders, and the individual made a return demonstration of using PERS equipment to the provider ~~shall~~ by documenting and retain ~~retaining records that include all of~~ the following:
 - (i) ~~Consumer's~~ Individual's name and contact information~~;~~.
 - (ii) Date of ~~delivery~~, installation, ~~demonstration, and~~ initial training of the individual, initial response plan made, initial training of responders, and return demonstration by the individual~~;~~.
 - (iii) ~~Consumer's~~ Individual's signature. The ~~case manager~~ ODA's designee shall record the ~~consumer's~~ individual's signature of choice in the ~~consumer's~~ individual's person-centered service services plan. The signature of choice may include a handwritten signature; initials; stamp or mark; or electronic signature.
- (c) ~~For~~ As part of monthly PERS, the provider shall verify each episode of service-related contact with the ~~consumer, individual~~ the provider shall retain a record that includes the by documenting and retaining all of the following:
 - (i) ~~Consumer's~~ Individual's name~~;~~.
 - (ii) Date and time of contact~~;~~.
 - (iii) Summary of the occasion (e.g. an incident, needs additional training)~~;~~.
 - (iv) Service ~~delivered~~ provided (including the service of e.g. responding to an alarm signal, notifying a responder, responding to a false alarm, additional training, updating response plan, replacing equipment or batteries)~~;~~ ~~and~~.
 - (v) Name of each staff person having contact with the ~~consumer~~

individual.

(vi) If the contact was in person, the provider shall also collect the individual's signature to verify the services were provided.

(d) The provider may use ~~a technology-based~~ an electronic system to collect or retain the records required under this rule.

(e) The provider shall retain the records required under this rule and provide access to those records for monitoring according to ~~paragraph (B)(5) of~~ rule 173-39-02 of the Administrative Code.

(C) Units and rates:

(1) Two types of ~~ERS~~ PERS units:

(a) ~~Unit of ERS service~~Monthly PERS: One unit of monthly PERS is sixteen or more days of ~~ERS PERS~~ PERS in a month. One-half unit is fifteen services days or less of ~~ERS PERS~~ PERS in a month. ~~This unit Monthly PERS includes response plan updating, operating the station, PERS equipment testing, additional training of individuals, each emergency responder and providing follow-up training to a consumer, caregiver, ODA, or the PAA additional training of responders, repairing equipment, replacing batteries, and replacing equipment.~~

(b) Unit of ~~ERS PERS~~ PERS installation: The one-time cost for ~~delivery and installation of the ERS~~ installing PERS equipment ~~into the home of the consumer, and the initial face-to-face demonstration and training of the individual on how to use the ERS PERS equipment that the provider furnishes to a consumer, the initial response plan, the initial training of responders, and verifying the success of the individual's return demonstration.~~

(2) The maximum rates allowable for ~~ERS~~ PERS installation and monthly PERS are listed in Appendix A to rule ~~5101:3-1-06.1~~ 5160-1-06.1 of the Administrative Code.

(3) The payment rates are subject to the rate-setting methodology in rule 5160-31-07 of the Administrative Code.

~~(D) Definition for this rule: "Designated responder" means an individual the emergency response center contacts if the consumer signals an alarm.~~