

# CSI - Ohio

## The Common Sense Initiative

### Business Impact Analysis

**Agency Name:** OHIO DEPARTMENT OF AGING

**Package Title:** ODA PROVIDER CERTIFICATION: MINOR HOME MODIFICATION, MAINTENANCE, AND REPAIR

**Rule Numbers:** 173-39-02.9

**Date:** June 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- ☐ Rescinded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

OAC173-39-02.9 regulates ODA-certified providers when they provide minor home modification, maintenance, or repair to individuals enrolled in the PASSPORT Program. In this rule, ODA proposes many amendments for minor home modification, maintenance, and repair.

ODA conducted a 5-year review of the rule.

#### SPECIFIC AMENDMENTS

ODA also proposes to rearrange the topics in the rule to reflect the order of topics in most other rules regulating services in OAC Chapter 173-39. The pattern begins with definitions under (A); provider requirements under (B) beginning with general requirements, then provider qualifications, then service verification; and units and rates under (C).

ODA proposes to consolidate the definition of *minor home modification, maintenance, and repair* in (A), with (A)(1) stating what jobs are included in the definition and (A)(2) stating what jobs are not included in the definition.

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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.

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 paragraphs requiring authorization from ODA's designee or a case manager because it duplicates requirements for all ODA-certified providers in OAC173-39-02.

ODA proposes to retain the requirement for providers to secure permits before beginning jobs when required by other laws, but also proposes to require permits before beginning jobs when required by a homeowners' association. The provider would be bound to the homeowners' association requirements if not mentioned by the rule; however, mentioning this may prevent any misconception that our rule may override a homeowners' association and authorize a job without first seeking the association's permit. This language now appears in (B)(3).

ODA proposes to require providers to obtain any inspections required by other laws before beginning a job. This would highlight what is already required by other laws. For example, before digging holes in a yard for a wheelchair ramp's footers, a provider must wait for OUPS to inspect the yard to identify the location of underground utilities. This language appears in (B)(3).

ODA proposes to retain the requirement for providers to undergo inspections after completing a job if required by other laws, but also proposes to require inspections after completing a job if required by a homeowners' association. The provider would be bound to the homeowners' association requirements if not mentioned by the rule; however, mentioning this may prevent any misconception that our rule may override a homeowners' association's authority. This language now appears in (B)(4).

ODA proposes to continue requiring providers to provide warranties covering their workmanship and materials; however, ODA proposes to make 2 reasonable amendments: (1) The warranty should last at least one year. (2) A warranty is only necessary if generally-accepted industry standards for a specific job are to offer warranties. For example, if a provider only changes a furnace filter, and the generally-accepted industry standard for replacing furnace filters is to not offer a warranty, there is no expectation to offer a warranty.

ODA added 2 standard paragraphs to (C) which do not add new requirements to the rule. One identifies the Ohio Dept. of Medicaid (ODM) rule establishing the rates of payment for jobs of minor home modification, maintenance, or repair. The other says rates are subject to an ODM rate-setting rule. Without inserting these paragraphs, readers of this rule on ODA-certified providers may not know that 2 ODM rules affect their rates.

ODA proposes to expound on the property owner's responsibilities. The current rule says a *written consent of the property owner ...the property will be left in the modified state after the consumer vacates the premises*. The proposed new rule adds clarity by acknowledging the individual is sometimes the homeowner and by stating the property owner is responsible for uninstalling any modifications the property owner finds undesirable, but only after the individual vacates the home or no longer requires the modification. The proposed consent-agreement language also incorporates an item previously in (A) to this paragraph. It says the consent agreement should indicate the property owner is aware that modifications are to help the individual function safely in the home, not to improve property value.

ODA also proposes to update the rule's terminology in the following ways:

- Adding *ODA provider certification* to the beginning of the rule's title.
- Using *job* consistently to refer to a unit of minor home modification, maintenance, or repair instead of *task*, *work*, or *job order*.
- Using *home* consistently, and *property* occasionally, instead of also using *household* and *place of residence*.
- Replacing uses of *consumers* with *individuals*.
- Removing unnecessary occurrences of *that*.
- Replace lists in the format of run-on sentences with lists either (1) appearing in one sentence in one paragraph, or (2) in separate paragraphs in bullet-point format (i.e., being separated by periods, not semicolons).

- Replacing uses of *will* and *must* with *shall*.
- Replacing uses of *furnish* with *provide*.
- Replacing *prior to* with *before*.
- Replacing *long-term care agency providers* with *ODA-certified agency providers*.
- Replacing *ODA's designees* with *its designees* when the term occurs after *ODA*.
- Deleting occurrences of *but is not limited to* as they occur after *includes*, because the extra words do not change the meaning of *includes*.

**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 minor home modification, maintenance, or repair and cited OAC 173-39-02.9. Because CMS authorized a waiver that included minor home modification, maintenance, or repair, as regulated by OAC 173-39-02.9 and 173-39-02, the state is responsible for maintaining OAC 173-39-02.9 and 173-39-02.

**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 rules exist to comply with the state laws ODA listed in its response to BIA question #2, especially ORC § 173.391. Additionally, as ODA listed in its response to BIA question #3, the rules exist because ODA is responsible for maintaining them as part of the continued implementation of the Medicaid-funded component of the PASSPORT Program.

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

ODA (and its designees) monitor 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 26, 2016, ODA emailed a provider (People Working Cooperatively), a provider association (Ohio Association of Senior Centers), and the Ohio Association of Area Agencies on Aging (OAA) to inform them of an opportunity to review the rule and provide ODA with recommendations for improving it by November 1, 2016.

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

Of the stakeholders ODA contacted on October 26, 2016, only O4A responded.

COMMENT	ODA'S RESPONSE
<p>The only input I have about these services is that we are having a difficult time having enough providers for Minor Home Mod services and the providers we have are so busy it often takes months for them to get to a job. I am not sure if the application fee<sup>1</sup> is a turn off or just the basic application process being cumbersome that prevents companies from applying to become certified for this service.</p> <p>O4A on behalf of AAA3</p>	<p>Thank you for your input. ODA is committed to improving the clarity of its rules and will take this into consideration when discussing further rule development.</p> <p>Please note, ODA staff are available to answer any questions regarding implementation of this rule or the application process in general. Additionally, our online rules library is available 24/7 as a resource to assist providers in learning more about the rules regulating this service.</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. The amendments bring clarity to the rules. The amendments to OAC173-39-02 regarding providers of minor home modification, maintenance, and repair reduce the regulatory burden.

**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 amended rule takes effect, ODA will post it on ODA's [website](#). ODA will also send an email to subscribers of our rule-notification service to feature the rule.

Through its regular monitoring activities, ODA and its designees will monitor providers for compliance. OAC173-39-02 requires all providers to allow ODA (and its designees) to monitor.

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<sup>1</sup> Although ORC§173.391 permits ODA to establish a fee to become an ODA-certified provider, ODA has never charged a fee for applying to become a certified provider, and OAC173-39-02 and 173-39-02.9 do not require such a fee. When applying to become a Medicaid provider, ODM charges providers a fee to comply with the Affordable Care Act's provider screening requirements in [42 C.F.R. Part 455, Subpart E](#). (Also see ORC§5164.31.)

**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;**

A stable number of providers are certified to provide minor home maintenance, modification, and repair. In 2015, 125 were certified. In 2017, 126 providers are certified.

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

The rule requires providers to do the following:

- The provider must comply with federal, state, or local laws.
- The provider must secure permits before beginning jobs when required by other laws or a homeowners' association. The provider would be bound to do so if not mentioned by the rule; however, mentioning these requirements may prevent any misconception that ODA's rule may override other laws or a homeowners' association's authority.
- The provider must obtain any inspections required by other laws or a homeowners' association before beginning a job. This would highlight what is already required by other laws. For example, before digging holes in a yard for a wheelchair ramp's footers, a provider must wait for OUPS to inspect the yard to identify the location of underground utilities.
- The provider must complete the job. (E.g., Build a wheelchair ramp or change a furnace filter.)
- The provider must undergo inspections after completing a job if required by other laws or a homeowners' association. The provider would be bound to do so if not mentioned by the rule; however, mentioning this may prevent any misconception that our rule may override other laws or a homeowners' association's authority. It also provides ODA and its designees with assurance that jobs were correctly provided, thereby assuring the health and safety of the individual.
- The provider must provide a warranty covering workmanship and materials lasting at least one year, but only if generally-accepted industry standards for a specific job are to offer warranties. For example, if a provider only changes a furnace filter, and the generally-accepted industry standard for replacing furnace filters is to not offer a warranty, there is no expectation to offer a warranty. This is a common-sense reduction in regulations on providers.
- The provider shall use only licensed or accredited employees—or, in the case of non-agency providers, be licensed or accredited—if other federal, state, or local laws require licensure or accreditation to perform a job. ODA is not requiring licensure or accreditation for jobs when other laws do not require the licensure or accreditation.
- The provider must obtain the individual's signature to verify whether the provider completed the job.

**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.*

In the appendix to OAC[5160-1-06.1](#), the Ohio Dept. of Medicaid (ODM) establishes the maximum-possible payment of Medicaid funds for minor home modification, maintenance, or repair for the PASSPORT Program at \$7,883.40 per job. Some jobs may cost much more than others to complete. On average, the amount providers billed to the PASSPORT Program in 2015 was \$1,165.11 per job or only 14.87% of the maximum-possible rate per job.

SERVICE	FOR CALENDAR YEAR 2015				
	# OF PROVIDERS ODA CERTIFIED TO PROVIDE SERVICE	UNITS	UNITS BILLED	AVERAGE BILLED PER UNIT	MAXIMUM ALLOWABLE PER UNIT
Minor Home Modifications, Maintenance, and Repair	125	1 job	2,066	\$1,165.11	\$7,837.40

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

Providers voluntarily apply for ODA certification. Providers are only required to meet certification requirements in OAC 173-39-02.9 and 173-39-02 if they want paid by a program that requires ODA certification, such as the PASSPORT Program. Providers may provide minor home modification, maintenance, or repair without ever obtaining ODA certification when paid by third-party insurers, private pay, or other government programs not requiring ODA certification.

Most of the requirements in OAC173-39-02.9 highlight compliance with federal, state, and local laws and homeowners' association requirements, to which a provider would already need to comply if not highlighted by this rule. Thus, the regulatory burdens identified in #14b of this BIA are minimal.

### **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. ODA does not discriminate between providers based upon the size of their business or organization. Providers regulated by these rules are typically small businesses according to ORC[§119.14](#).

**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 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 rules.

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.



173-39-02.9

**ODA provider certification: ~~Minor~~ minor home modification, maintenance, and repair ~~services~~.**

(A) "Minor home modification, maintenance, and repair" ~~service~~ (MHM) ~~provides means~~ jobs environmental accessibility adaptations to the structural elements of the interior or exterior of modifying, maintaining, or repairing a consumer's an individual's place of residence home that enable to help the consumer individual to function with greater independence in the home, assure health and safety in the home, and meet the individual's identified needs ~~and remain in the community.~~

~~Modifications, maintenance and repairs that are excluded from this service are those adaptations or improvements to the home that are of general utility and not of direct medical or remedial benefit to the consumer, such as carpeting, roof replacement, central air conditioning, and adaptations which add to the total square footage of the home, etc.~~

Moved to  
(A)(2).

~~MHM services are limited to those that cannot be accomplished through existing informal or formal supports, and those that are not the legal or contractual responsibility of a landlord or a home owner other than the consumer.~~

Moved to  
(A)(2).

Duplicates a requirement for every ODA-certified provider in OAC173-39-02.

~~All MHM services must be provided in accordance with applicable building codes and must be authorized by the consumer's plan of care.~~

See (B)(1)(b), (B)(3), and (B)(4).

~~(B) A unit of MHM service is one completed job order. The unit rate is the rate negotiated by ODA's designee and must include a formal estimate of materials and labor. The provider cannot bill in excess of the estimate, unless a cost revision is authorized by the case manager prior to the initiation of the MHM service.~~

Moved to  
(C).

~~(C)(1)~~ MHM ~~services include, but are not limited to~~ includes the following ~~tasks~~ jobs:

~~(1)(a)~~ Minor home modification ~~includes, but is not limited to:~~ including installing safety devices, smoke alarms, carbon-monoxide detectors, devices to improve the individual ability to perform ADLs (if not provided under rule 173-39-02.7 of the Administrative Code), minor interior/exterior modifications to improve the individual's health and safety, and enhanced accessibility modifications (e.g., ramps, doorways).

Moved to  
(A)(1)(a).

~~(a) The installation of safety devices, such as smoke alarms and/or carbon monoxide detectors;~~

Moved to  
(A)(1)(a).

~~(b) The installation of devices to improve the consumer's ability to perform activities of daily living, if not provided under home medical equipment and supplies service;~~

Moved to (A)(1)(a). → ~~(e) Minor interior and/or exterior modification to improve the health and safety of the consumer; and,~~

Moved to (A)(1)(a). → ~~(d) Enhanced accessibility modifications, such as ramps and doorways.~~

~~(2)(b)~~ Minor home maintenance ~~includes, but is not limited to:~~ including inspecting and maintaining furnaces, water heaters, and water pumps; and replacing/installing electrical fuses.

Moved to (A)(1)(b). → ~~(a) The inspection of furnaces and water heaters;~~

Repair jobs moved to (A)(1)(c). → ~~(b) Plumbing and electrical repairs; and,~~

Repair jobs moved to (A)(1)(c). → ~~(e) The inspection and maintenance of water pumps.~~

~~(3)(c)~~ Minor ~~household~~ home repair ~~includes, but is not limited to:~~ including plumbing and electrical repair and repair (or replacement) of window screens or panes.

Moved to (A)(1)(c). → ~~(a) The repair or replacement of screens, broken window panes; and,~~

Maintenance jobs moved to (A)(1)(b). → ~~(b) The replacement and/or installation of electrical fuses.~~

(2) MHM does not include the following jobs:

Moved from (A). → (a) Adaptations or improvements to the home of general utility, and not of direct medical or remedial benefit to the individual.

Moved from (A). → (b) Adding to the total square footage of the home, except when necessary to complete an adaptation (e.g., in order to improve entrance/egress to a home or to configure a bathroom to accommodate a wheelchair).

Moved from (A). → (c) Jobs that can be accomplished through existing informal or formal supports.

Moved from (A). → (d) Jobs that are the legal or contractual responsibility of someone other than the individual.

(B) Requirements for ODA-certified providers of minor home modification, maintenance, and repair:

(1) General requirements:

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

Because it's reasonable to expect a MHM provider may first read this MHM rule but be unaware of the rule of requirements for all providers, ODA adds a reference to OAC173-39-02 here. This is a standard reference in rules regulating providers when providing specific services OAC Chapter 173-39.



(b) If federal, state, or local laws regulate a job, the provider shall comply with federal, state, or local laws when providing a MHM job.

Moved to  
(B)(7).

~~(D) Eligible providers of MHM services are certified long-term care agency and non-agency providers. Providers must have appropriate licensure, as required, or other appropriate credentials to perform jobs requiring specialized skills, including but not limited to:~~

~~(1) Electrical work;~~

~~(2) Heating and ventilation; and,~~

~~(3) Plumbing work.~~

~~(E) Except as otherwise provided below, MHM providers must obtain and furnish evidence of compliance with:~~

~~(1)(2) Consent agreements: The written consent of the property owner to modify the property. When appropriate, the provider must ensure that the owner understands that the property will be left in the modified state after the consumer vacates the premises. A provider shall not modify, maintain, or repair a property without first obtaining a written consent agreement from the property owner, which may be the individual, the individual's family, or a landlord. In the agreement, the property owner shall agree to the modification and allow it to remain in place until after the individual vacates the property or no longer requires the modification.~~

New: For inspections required *beforehand*, such as an inspection by OUPS before digging in yard for ramp footers.

~~(2)(3) Permits: Before beginning a job, the provider shall obtain All all permits and inspections required by law, a homeowners' association, or both including building permits, prior to commencing work on each job order.~~

~~(3)(4) Inspections: After completing a job, but before billing for the job, the provider shall obtain Any any necessary inspections, and inspection reports, and permits required by federal, state and local laws law, a homeowners' association, or both, upon completion of each job to verify that the whether each repair, modification or installation was completed job meets federal, state, and local laws or homeowners' association requirements. The provider must obtain these inspections, inspection reports, and permits prior to prior to billing for the completed job.~~

New

New

This duplicates a requirement in OAC173-39-02.

~~(4) A signed and dated authorization from the consumer's case manager, or case manager's designee, for each job order prior to commencing work.~~

~~(F) The provider must:~~

~~(1)~~(5) Health and safety: The provider shall ~~Inform~~ inform the ~~consumer individual~~ and ODA or its designee of any health and/or safety risks expected during the job; and assist the ~~consumer individual~~ and case manager to coordinate dates and times of ~~work the job~~ to assure minimal risk of hazard to the ~~consumer individual~~.

New: If the industry standard is to warrant a ramp for 1 year, a 1-year warranty suffices. If the industry standard is to not warrant the replacement of a furnace filter, no warranty is expected.

~~(2)~~(6) Warranties: ~~Furnish~~ The provider shall provide a warranty, lasting at least one year, and covering workmanship and materials consistent with generally-accepted industry standards for the job completed. The provider shall submit details of the warranty with the final invoice ~~submitted the provider submits~~ to ODA or ODA's its designee. ODA and ODA's its designee ~~will~~ shall not pay any invoice ~~that is~~ not accompanied by a warranty.

New

#### (7) Provider qualifications:

Moved from (D).

→ (a) Provider types: Only an ODA-certified agency or non-agency provider shall provide MHM.

Moved from (D).

→ (b) Licensure: If federal, state, or local laws require the provider or the provider's staff to have a current, valid license, certificate, or other credentials before providing a job of MHM, the provider shall not provide or its staff shall not provide the job until the provider or its staff complies with those laws.

→ ~~(3) Assure that any smoke and/or heat detectors authorized to be installed by the provider will be installed only by individuals certified by the state fire marshal in accordance with Chapter 1301:7-7 of the Administrative Code.~~

There is no need for a specific requirement because (B)(7)(b) covers all professional licenses and certificates.

~~(4)~~(8) Service verification: ~~Obtain~~ The provider shall obtain the ~~consumer's individual's~~ or caregiver's signature and date at the ~~close completion~~ of the job ~~order to certify verify that~~ the ~~work provider completed the job~~ authorized ~~has been completed, left~~ the ~~consumer's individual's~~ property ~~has been left~~ in satisfactory condition, and repaired any incidental damages ~~have been repaired~~.

~~(G)~~(9) Additional jobs: ~~In cases where a provider is already in a consumer's home and identifies additional problems that should be fixed immediately, should be fixed in conjunction with the original repair, or could easily be fixed while in the consumer's home, the provider may address the additional problems only if the provider contacts the consumer's case manager or the case manager's designee to explain what the problem is, how it will be fixed, the cost of the additional repair, and obtains authorization to complete the additional work.~~ The PASSPORT program may pay the provider an additional charge for providing extra jobs in the individual's home incidental to the

original job or easily fixed while in the individual's home, but only if ODA's designee authorizes the extra jobs before the provider completes the original job.

(C) Units and rates:

Moved  
from (B).

→ (1) A unit of minor home modification, maintenance, or repair is one completed job. The unit rate is the rate negotiated by ODA's designee and must shall include a formal estimate of materials and labor. The provider shall not bill in excess of the estimate, unless a cost revision is authorized by the case manager before the initiation of the minor home modification, maintenance, or repair or according to paragraph (B)(9) of this rule.

→ (2) The maximum rate allowable for one job of minor home modification, maintenance, or repair is established in Appendix A to rule 5160-1-06.1 of the Administrative Code.

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

Because it's reasonable to expect a MHM provider may first read this MHM rule but be unaware that the rates MHM for the ODA-administered PASSPORT Program are established by ODM rules. This is a helpful reference that's standard in many rules of OAC Chapter 173-39.



Department of  
Aging

John Kasich, Governor  
Stephanie M. Loucka, Director

**173-39-02.9 ODA PROVIDER CERTIFICATION:  
MINOR HOME MODIFICATION, MAINTENANCE, AND REPAIR**

Proposed Revisions During CSIO Review  
August 23, 2017

¶	As Originally Submitted to CSIO	As Revised During CSIO Review	Notes for CSIO
(A)	(A) "Minor home modification, maintenance, and repair" <del>service</del> (MHM) <del>provides means jobs environmental accessibility adaptations to the structural elements of the interior or exterior of</del> <u>modifying, maintaining, or repairing a consumer's an individual's place of residence home that enable to help</u> the <del>consumer individual</del> <u>to</u> function with greater independence in the home, <u>assure health and safety in the home, and meet the individual's identified needs</u> <del>and remain in the community.</del>	(A) "Minor home modification, maintenance, and repair" <del>service</del> (MHM) <del>provides means jobs environmental accessibility adaptations to the structural elements of the interior or exterior of</del> <u>modifying, maintaining, or repairing a consumer's an individual's place of residence home that enable to help</u> the <del>consumer individual</del> <u>to</u> function with greater independence in the home, <u>assure health and safety in the home, and meet the individual's identified needs</u> <del>and remain in the community.</del>	ODA proposes to delete "to" as it occurs before "function." This revision has no effect on the rule's adverse impact.
(B)(1)(b)	(b) If federal, state, or local <u>laws regulate a job, the provider shall comply with federal, state, or local laws when providing a</u> <u>MHM job.</u>	(b) If federal, state, or local <u>laws regulate a job, the provider shall comply with those laws</u> <u>when providing the job.</u>	ODA proposes to replace "a MHM job" with "the job."  ODA proposes to replace the 2 <sup>nd</sup> occurrence of "federal, state, or local laws" with "those laws."  These revisions have no effect on the rule's adverse impact.

¶	As Originally Submitted to CSIO	As Revised During CSIO Review	Notes for CSIO
(B)(2)	<p><del>(1)(2) Consent agreements: The written consent of the property owner to modify the property. When appropriate, the provider must ensure that the owner understands that the property will be left in the modified state after the consumer vacates the premises. A provider shall not modify, maintain, or repair a property without first obtaining a written consent agreement from the property owner, which may be the individual, the individual's family, or a landlord. In the agreement, the property owner shall agree to the modification and allow it to remain in place until after the individual vacates the property or no longer requires the modification.</del></p>	<p><del>(1)(2) Consent agreements: The written consent of the property owner to modify the property. When appropriate, the provider must ensure that the owner understands that the property will be left in the modified state after the consumer vacates the premises. A provider shall not modify, maintain, or repair a home without first obtaining a written consent agreement from the homeowner, which may be the individual, the individual's family, or a landlord. In the agreement, the homeowner shall agree to the modification and allow it to remain in place until after the individual vacates the home or no longer requires the modification.</del></p>	<p>ODA proposes to consistently use "home" in this paragraph because it's the term used in the rule's title, the name of the service, and the phrase "home and community based services." This revision has no effect on the rule's adverse impact.</p>
(B)(3)	<p><del>(2)(3) Permits: Before beginning a job, the provider shall obtain All all permits and inspections required by law, a homeowners' association, or both including building permits, prior to commencing work on each job order.</del></p>	<p><del>(2)(3) Permits: Before beginning a job, the provider shall obtain All all permits and pre-job inspections required by law, a homeowners' association, or both including building permits, prior to commencing work on each job order.</del></p>	<p>ODA proposes to insert "pre-job" here and "post-job" in (B)(4). This revision has no effect on the rule's adverse impact.</p>

¶	As Originally Submitted to CSIO	As Revised During CSIO Review	Notes for CSIO
(B)(4)	<p><del>(3)</del>(4) <u>Inspections: After completing a job, but before billing for the job, the provider shall obtain Any any necessary inspections, and inspection reports, and permits required by federal, state and local laws law, a homeowners' association, or both, upon completion of each job to verify that the whether each repair, modification or installation was completed job meets federal, state, and local laws or homeowners' association requirements. The provider must obtain these inspections, inspection reports, and permits prior to prior to billing for the completed job.</u></p>	<p><del>(3)</del>(4) <u>Inspections: After completing a job, but before billing for the job, the provider shall obtain Any any necessary post-job inspections, and post-job inspection reports, and permits required by federal, state and local laws law, a homeowners' association, or both, upon completion of each job to verify that the whether each repair, modification or installation was completed job meets federal, state, and local laws or homeowners' association requirements. The provider must obtain these inspections, inspection reports, and permits prior to prior to billing for the completed job.</u></p>	<p>ODA proposes to insert "post-job" here and "pre-job" in (B)(3). This revision has no effect on the rule's adverse impact.</p>

¶	As Originally Submitted to CSIO	As Revised During CSIO Review	Notes for CSIO
(B)(5)	<p><del>(4)(5)</del> Health and safety: The provider shall <del>Inform</del> inform the <del>consumer</del> individual and ODA or its designee of any health and/or safety risks expected during the job; and assist the <del>consumer</del> individual and case manager to coordinate dates and times of <del>work</del> the job to assure minimal risk of hazard to the <del>consumer</del> individual.</p>	<p><del>(4)(5)</del> Health and safety: <del>Inform the consumer and ODA or its designee of any</del> If health and/or safety risks <u>to the individual</u> are expected during the job; <u>the provider shall inform the individual and ODA's designee of those risks</u> and <del>assist the consumer and case manager to coordinate with the individual and ODA (or its designee) to provide the job on dates and times of work to assure minimal risk of hazard to the consumer</del> <u>that minimize those risks.</u></p>	<p>ODA proposes to require informing and coordinating <i>only if</i> health and/or safety risks are expected during the job. <b>This revision may reduce the rule's adverse impact on providers.</b></p> <p>ODA proposes to only require informing and coordinating if the health and/or safety risks are risks <i>to the individual</i>. The rule does not require the provider to inform ODA of occupational hazards. <b>This revision may reduce the rule's adverse impact on providers.</b></p> <p>ODA proposes to replace "case manager" with "ODA (or its designee)" and clean up the language. This revision has no effect on the rule's adverse impact.</p>



¶	As Originally Submitted to CSIO	As Revised During CSIO Review	Notes for CSIO
(B)(7)	<p><u>(7) Provider qualifications:</u></p> <p><u>(a) Provider types: Only an ODA-certified agency or non-agency provider shall provide MHM.</u></p> <p><u>(b) Licensure: If federal, state, or local laws require the provider or the provider's staff to have a current, valid license, certificate, or other credentials before providing a job of MHM, the provider shall not provider or its staff shall not provide the job until the provider or its staff complies with those laws.</u></p>	<p><u>(7) Provider qualifications:</u></p> <p><u>(a) Provider types: Only an ODA-certified agency or non-agency provider shall provide MHM.</u></p> <p><u>(b) Licensure: If federal, state, or local laws require the provider or the provider's staff to have a current, valid license, certificate, or other credentials before providing a particular job, the provider or its staff shall not provide the job until the provider or its staff complies with those laws.</u></p>	ODA proposes to use "a particular job" instead of "a job of MHM." This revision has no effect on the rule's adverse impact.
(B)(8)	<p><del>(4)</del>(8) Service verification: <del>Obtain</del> The provider shall obtain the <del>consumer's individual's</del> or caregiver's signature and date at the <del>close completion</del> of the job <del>order</del> to <del>certify</del> <del>verify that the work provider completed the job</del> authorized <del>has been completed,</del> <del>left the consumer's individual's</del> property <del>has been left in</del> satisfactory condition, and <del>repaired</del> any incidental damages <del>have been repaired.</del></p>	<p><del>(4)</del>(8) Service verification: <del>Obtain</del> The provider shall obtain the <del>consumer's individual's</del> or caregiver's signature and date at the <del>close completion</del> of the job <del>order</del> to <del>certify</del> <del>verify that the work provider completed the job</del> authorized, <del>has been completed,</del> <del>left the consumer's individual's</del> property <del>home has been left</del> in satisfactory condition, and <del>repaired</del> any <del>incidental</del> damages <del>have been repaired</del> <u>incidental to the job.</u></p>	ODA proposes to clarify that damages are "incidental to the job." This revision has no effect on the rule's adverse impact.

¶	As Originally Submitted to CSIO	As Revised During CSIO Review	Notes for CSIO
(B)(9)	<p><del>(G)(9) Additional jobs: In cases where a provider is already in a consumer's home and identifies additional problems that should be fixed immediately, should be fixed in conjunction with the original repair, or could easily be fixed while in the consumer's home, the provider may address the additional problems only if the provider contacts the consumer's case manager or the case manager's designee to explain what the problem is, how it will be fixed, the cost of the additional repair, and obtains authorization to complete the additional work. The</del></p> <p><u>PASSPORT program may pay the provider an additional charge for providing extra jobs in the individual's home incidental to the original job or easily fixed while in the individual's home, but only if ODA's designee authorizes the extra jobs before the provider completes the original job.</u></p>	<p><del>(G)(9) Revising authorized jobs: In cases where If a provider is already in the process of completing a job a consumer's home and identifies additional problems that should be fixed immediately, should be fixed in conjunction with the original repair, or could easily be fixed while in the consumer's home, the provider may address the additional problems only if the provider contacts the consumer's case manager or the case manager's designee to explain what the problem is, how it will be fixed, the cost of the additional repair, and</del></p> <p><u>identifies an unforeseen issue necessitating a revision to the job authorization or negotiated rate, obtains prior authorization from ODA (or its designee) shall be obtained to complete before completing the job additional work.</u></p>	<p>ODA proposes to replace language indicating the provider is already in the home (but, perhaps, not yet on the job) with "in the process of completing a job."</p> <p>ODA proposes to use "unforeseen issue" instead of "extra jobs," because the job authorization would be revised to include extra work and a higher rate of payment. "Additional job" implies separately-authorized jobs.</p> <p>ODA proposes to no longer use "fix" or its derivatives because they imply revisions to job authorizations are limited to repairs. If a provider widens a doorway for a wheelchair and notices another doorway needs the same, the provider would need to follow this process to widen both and be paid for doing both. Widening doorways for wheelchairs is not a repair.</p> <p>These revisions clarify how a provider can, in the process of completing a job, have the job revised to address unforeseen issues, which would result in a higher rate of payment.</p> <p>These revisions may also may reduce the rule's adverse impact on providers by removing indications that job authorizations may only be revised for repairs.</p>

¶	As Originally Submitted to CSIO	As Revised During CSIO Review	Notes for CSIO
(C)	<p><u>(C) Units and rates:</u></p> <p><u>(1) A unit of minor home modification, maintenance, or repair is one completed job. The unit rate is the rate negotiated by ODA's designee and must shall include a formal estimate of materials and labor. The provider shall not bill in excess of the estimate, unless a cost revision is authorized by the case manager before the initiation of the minor home modification, maintenance, or repair or according to paragraph (B)(9) of this rule.</u></p> <p><u>(2) The maximum rate allowable for one job of minor home modification, maintenance, or repair is established in Appendix A to rule 5160-1-06.1 of the Administrative Code.</u></p> <p><u>(3) The rates are subject to the rate-setting methodology in rule 5160-31-07 of the Administrative Code.</u></p>	<p><u>(C) Units and rates:</u></p> <p><u>(1) A unit of minor home modification, maintenance, or repair is one completed job.</u></p> <p><u>(2) Appendix A to rule 5160-1-06.1 establishes the maximum rate allowable for one job of minor home modification, maintenance, or repair.</u></p> <p><u>(3) Rule 5160-31-07 of the Administrative Code requires the unit rate to be negotiated between the provider and ODA's designee. The negotiated rate shall include all materials and labor. The provider shall not bill ODA's designee for any amount in excess of the negotiated rate, unless ODA's designee revises the negotiated rate in one of the following situations:</u></p> <p><u>(a) ODA's designee revises the rate before the provider begins the job.</u></p> <p><u>(b) ODA's designee revises the rate to coincide with its authorization to allow the provider to address additional problems as part of the original job, according to the process outlined in paragraph (B)(9) of this rule.</u></p>	<p>5160-31-07 requires negotiated rates, so ODA proposes to consistently use that language instead of "estimate."</p> <p>ODA proposes to write (C)(2) in the active voice.</p> <p>ODA proposes to move the language on revising rates from (C)(1), the paragraph defining a unit, to (C)(3), the paragraph on rate-setting methodology (i.e., negotiated rates).</p> <p>ODA proposes to split the language on revising rates into 2 sub-paragraphs.</p> <p>These revisions have no effect upon the rule's adverse impact.</p>