

CSI - Ohio

The Common Sense Initiative

Business Impact Analysis

Agency Name: OHIO DEPARTMENT OF AGING

Package Title: ODA PROVIDER CERTIFICATION: HOMEMAKER

Rule Number(s): 173-39-02.8

Date: April 17, 2017, Revised May 10, 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- ☐ Rescinded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

OAC173-39-02.8 regulates providers when they provide a homemaker service.

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 providers.

SPECIFIC AMENDMENTS

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 duplicating requirements in OAC173-39-02 and duplicating other paragraphs in this rule.

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ODA proposes to replace *one or more of the following requirements* in (B)(6)(a) with *at least one of the following requirements*.

In (B)(6)(a)(iii), ODA proposes to replace *without a twenty-four-month lapse in employment as a nurse aide or home health aide* to a general reference to *any additional requirements under 42 CFR Part 484*. This proposed change does not change how one may qualify to become a homemaker aide. Instead, it prevents ODA from restating or interpreting 42 CFR Part 484.

ODA proposes to allow a person with a current, valid license to be an RN or an LPN under the direction of an RN to qualify to be a homemaker supervisor. This will create a new employment opportunity for RNs and LPNs.

ODA also proposes to make basic terminology amendments, including the following:

- Adding *ODA provider certification* to the beginning of the rule's title.
- Replacing uses of *consumers* with *individuals*.
- Replacing uses of *must* with *shall*.
- Replacing *capacity* with *adequate staffing levels*.
- Replacing uses of *furnish* with *provide*.
- Replacing *prior to* with *before*.
- Deleting *delivery* when it occurs after *service*.

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 homemaker activities and cited OAC173-39-02.8. Because CMS authorized a waiver that included homemaker activities, as regulated by OAC173-39-02.8, the state is responsible for maintaining OAC173-39-02.8.

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 and to ensure continued implementation of the PASSPORT Program's Medicaid waiver, as authorized by the CMS.

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 March 29, 2016, ODA emailed 3 providers (Senior Resource Connection, LifeCare Alliance, and Homecare by Blackstone), 3 provider associations (Ohio Association of Senior Centers, LeadingAge Ohio, and Ohio Council for Home Care and Hospice), and the Ohio Association of Area Agencies on Aging (O4A), if they would share any issues they have with OAC173-39-02.8.

On October 26, 2016, ODA emailed 4 providers (Senior Resource Connection, LifeCare Alliance, Homecare by Blackstone, and Alzheimer's Association of Northwest Ohio Ohio), 4 provider associations (Ohio Association of Senior Centers, LeadingAge Ohio, Ohio Council for Home Care and Hospice, and Ohio Jewish Communities), and O4A to notify them of our opportunity to provide early input on the rule by making recommendations for amending the rule upon its 5-year review.

From April 17, 2017 to April 30, 2017, ODA conducted an online public-comment period on its website for the rule and this BIA.

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

On March 29, 2016, Senior Resource Connection said the rule, at first glance, looks straightforward and noted that, referrals for the homemaker service have diminished over the past several years.

On March 30, and April 3, 2016, Leading Age Ohio and Home Care by Black Stone responded after collaborating with one another. On April 1, 2016, Ohio Council for Home Care and Hospice responded. On April 8, 2016, O4A responded. The suggestions of these stakeholders appear in the table below.

On March 31, 2016, LifeCare Alliance said, *We have reviewed the rule and have no suggestions for change.* LifeCare Alliance later submitted a suggestion which appears in the table below.

SUGGESTIONS	ODA'S RESPONSES
<p>(A)(2) Require homemaker activities to be provided only within the state of Ohio.</p> <p><i>Home Care by Black Stone + Leading Age Ohio</i></p>	<p>ODA does not intend to limit errands to those occurring inside Ohio's borders. A person's pharmacy, etc. may be across the state line in Wheeling, WV, Covington, KY, etc.</p>
<p>(B)(1) Reference rule OAC173-39-02.</p> <p><i>Home Care by Black Stone + Leading Age Ohio</i></p>	<p>In the amended version of the rule ODA proposes to file with JCARR, ODA proposes to reference OAC173-39-02.</p>
<p>(B)(4) Require providers to maintain adequate staffing levels 7 days a week, instead of just 5.</p> <p><i>Home Care by Black Stone + Leading Age Ohio</i></p>	<p>The rule does not prohibit providers from maintaining adequate staffing levels 7 days per week. Case managers work with individuals to find providers who meet individuals' needs. If an individual needs a provider who is available 7 days a week, the case manager would refer the individual to such a provider.</p>
<p>(D)(5)(a) There is redundancy with <i>or more</i> and <i>minimum personnel</i> in the paragraph, but ODA may want to add <i>at a minimum</i> and <i>at least</i> to the same paragraph.</p> <p><i>Ohio Council for Home Care and Hospice</i></p>	<p>ODA is eliminating the unnecessary words <i>minimum personnel</i> and replacing <i>one or more</i> with <i>at least one</i>.</p>

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SUGGESTIONS	ODA'S RESPONSES
<p>(D)(5)(a) Suggest changing this to reflect the PCA language - "must, at a minimum, meet at least one of the following requirements."</p> <p><i>Home Care by Black Stone</i></p>	<p>Please see ODA's response to the previous suggestion.</p>
<p>(D)(5)(a) There is redundancy with <i>or more</i> and <i>minimum personnel</i> in the paragraph, but ODA may want to add <i>at a minimum</i> and <i>at least</i> to the same paragraph.</p> <p><i>Ohio Council for Home Care and Hospice</i></p>	<p>Please see ODA's response to the previous suggestion.</p>
<p>(D)(5)(a)(iv) G3a-f: is repetitive-already covered in F3d(iv). O4A</p>	<p>In the amended version of the rule ODA proposes to file with JCARR, ODA proposes deleting (F)(3)(d)(ii) and (F)(3)(d)(iv) because they duplicate language in this rule.</p>
<p>(D)(5)(b) The HMK supervisor must have a bachelor's or associate's degree in a health or human services area or <u>with</u> have a minimum of two years of work experience as a HMK. O4A</p>	<p>A provider is free to hire a person to be a supervisor with such a background, but ODA does not intend to require it.</p>
<p>(D)(5)(c)(ii) Increase the required hours of continuing education from 8 to 12. <i>Home Care by Black Stone + Leading Age Ohio</i></p>	<p>ODA's rule establishes the minimum thresholds and providers are free to require their employees to exceed those thresholds.</p>
<p>(D)(6)(b) Increase the frequency of supervisory home visits by reducing the maximum time between visits from 93 to 60. <i>Home Care by Black Stone + Leading Age Ohio</i></p>	<p>ODA's rule establishes the minimum thresholds and providers are free to require their employees to exceed those thresholds.</p>
<p>(D)(6)(b) ...can ODA be more specific about consumer's signature when supervisory visit is electronically documented? O4A</p>	<p>Please refer to the definition of <i>individual's signature</i> in OAC173-39-01..</p>
<p><i>In General</i> The one missing item with homemakers is the reimbursement rate. While this may not be in the rule, it is ancillary to it. For quality service, we need to retain a consistent staff, as [this] is critical to the clients. Given the fact that we lose money on every unit of service, it makes it difficult to pay a rate with benefits that makes sense. <i>LifeCare Alliance</i></p>	<p>The Ohio Dept. of Medicaid (ODM), not ODA, determines the maximum-possible rate of payment for each service in Appendix A to OAC5160-1-06.1.</p>

ODA received no comments in response to its October 26, 2016 email.

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During ODA's April, 2017 online public-comment period, ODA received the following comments:

	COMMENTS	ODA'S RESPONSES
1.	<p>(A) In (A), we feel if "travel attendant" is to remain in the definition, perhaps there should be a more clear definition of what this entails. Note that the 20 hour training does not address travel attendant activities. The HMK staff should not transport a consumer (to the grocery or laundry mat) in their own vehicles, and they should not accompany the individual in the individual's car if the individual is able to drive. The HMK staff may not want to add mileage to his/her own vehicle driving separately. The individual may be transported by a transportation provider if authorized by the Case Manager. There is a the concern that for Homemaker service, the HMK staff cannot perform any hand-on ambulation assist, etc. We would suggest realigning the activities as follows:</p> <ol style="list-style-type: none"> 1. House cleaning, including... 2. Laundry, including folding, ironing... 3. Assistance with meal planning, meal preparation and grocery purchase planning, grocery shopping and errands, such as picking up prescriptions 4. Acting as a travel attendant to assist individuals with shopping and other errands <p><i>Emily Turlo, Fiscal Manager Ohio District 5 Area Agency on Aging, Inc. (PAA5)</i></p>	<p>The rule does not require homemaker staff to act as travel attendants for individuals. The rule leaves flexibility in the degree to which activity plans may incorporate travel-attendant activities to assist individuals.</p> <p>Additionally, the rule does not prohibit travel attendant responsibilities from being included in training topics.</p>
2.	<p>(B)(3) Could ODA clarify the defininition (<i>sic</i>) of electronic service verification. For instance, a "telephony" system should link back to a phone number associated with the individual. But, if a provider uses a "tablet" type system- is it expected that the individual also sign? <i>I think it makes a difference in knowing what we need to see to verify service delivery.</i></p> <p><i>Ohio Association of Area Agencies on Aging</i></p>	<p>The electronic verification system needs to be a system in compliance with ORCS 121.36.</p>
3.	<p>(B)(3) Service verification: The provider shall maintain a record documenting each episode of homemaker activities provided to each individual. The record shall include the date of service, a description of the activities performed, the name of the aide providing the activities, the aide's arrival and departure time, and the aide's written or electronic signature to verify the accuracy of the record.</p> <p><i>Beth Foster Ohio Council for Home Care and Hospice</i></p>	<p>The version of the rule ODA files with JCARR will include <i>activities</i> after <i>homemaker</i>. ODA will also do the same in paragraph (B)(6)(a)(ii) in the phrase <i>Before providing homemaker [activities] to an individual, the provider shall conduct written testing,....</i></p>

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	COMMENTS	ODA'S RESPONSES
4.	<p>(B)(6)(a)(iii) Please note that the suggested revision below mimics not only the Medicare CoPs, but also the draft ODM-administered OHC Waiver: personal care services. (B)(6)(a)(iii) Successful completion of the medicare nurse aide training and competency evaluation program for home health aides required under 42 C.F.R. Part 484 (October, 2016 edition),.....</p> <p><i>Beth Foster</i> <i>Ohio Council for Home Care and Hospice</i></p>	<p>We will remove <i>nurse aide</i>, but retain <i>training</i>. 42 C.F.R. 484.4 requires successful completion of a <i>training program</i> and a <i>competency evaluation program</i>, so in the version of the rule ODA files with JCARR, ODA will use <i>training and competency evaluation program</i> for home health aides.</p> <p>For uniformity, in (B)(6)(a)(i)(a), ODA will use <i>nurse aide training and competency evaluation program</i>.</p>
5.	<p>(B)(6)(a)(v)(i)</p> <p>(i) Documentation skills; <u>OR</u></p> <p>(vi) Before providing homemaker to an individual, the provider shall conduct written testing, and skill testing by return demonstration, of all homemaker aides.....</p> <p><i>Beth Foster</i> <i>Ohio Council for Home Care and Hospice</i></p>	<p>In the version of the rule ODA files with JCARR, ODA will correct the structural problem as follows</p> <p>(B)</p> <p>(6) Staff qualifications.</p> <p>(A) Aides:</p> <p>(i) Homemaker aides shall meet at least one of the following requirements:</p> <p>(a) Successful completion of the....</p> <p>(b) [and so on]</p> <p>(ii) Before providing homemaker activities to an individual, the provide shall conduct written testing,.....</p>
6.	<p>(B)(6)(a)(v) In the Staff qualifications (B)(6)(a)(v) travel attendant responsibilities are not included in the training topics. We would suggest that this be added if travel attendant language is to remain in the definition</p> <p><i>Emily Turlo, Fiscal Manager</i> <i>Ohio District 5 Area Agency on Aging, Inc. (PAA5)</i></p>	<p>Please see ODA's response to comment #1.</p>
7.	<p>(B)(6)(a)(vi) In section (B)(6)(a)(vi), the reference to (D)(5)(a)(v) should be (B)(6)(a)(v)</p> <p><i>Emily Turlo, Fiscal Manager</i> <i>Ohio District 5 Area Agency on Aging, Inc. (PAA5)</i></p>	<p>In the version of the rule ODA files with JCARR, the reference will be to (D)(6)(a)(i)(e). This factors in the change made in response to comment #5.</p>
8.	<p>(B)(6)(a)(vi) References (D)(5)(a)(v) for testing elements, but this does not exist in the new rule.</p> <p><i>Ohio Association of Area Agencies on Aging</i></p>	<p>Please see ODA's response to comment #7.</p>

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	COMMENTS	ODA'S RESPONSES
9.	(B)(6)(c)(ii) References (B)(5)(c)(i) for continuing education topics. This appears to be a typo and should be (B)(6)(c)(i). <i>Ohio Association of Area Agencies on Aging</i>	In the version of the rule ODA files with JCARR, the rule will use (B)(6)(c)(i).
10.	(B)(6)(c)(ii) In (B)(6)(c)(ii) the reference to (B)(5)(c)(i) should refer to (B)(6)(a)(v) <i>Emily Turlo, Fiscal Manager</i> <i>Ohio District 5 Area Agency on Aging, Inc. (PAA5)</i>	Please see ODA's response to comment #9.
11.	(B)(6)(c)(ii) Continuing education: The provider shall assure and document a minimum of eight hours of continuing education for each staff member every twelve months on topics listed in paragraph (B)(5)(c)(i) of this rule. The rule referenced at the end of the above section does not seem to be a correct reference. I am unclear as to the correct reference. <i>Beth Foster</i> <i>Ohio Council for Home Care and Hospice</i>	Please see ODA's response to comment #9.
12.	(B)(7)(b) Could ODA clarify-if the supervisor is signing electronically, is it necessary to obtain the individual's signature? The sentence structure of this rule is confusing. <i>Ohio Association of Area Agencies on Aging</i>	The paragraph requires the signature of the individual and the supervisor. OAC173-39-01 defines individual's signature as one that may be electronic, so there is no need to make special mention of that in this rule.

13. 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.

14. 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.

15. 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.

16. 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 the homemaker service to individuals who are enrolled in ODA-administered programs.

17. 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

18. 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 2015, ODA had 692 providers certified to provide homemaker activities.

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

The PASSPORT Program's payment of Medicaid funds for the homemaker service is an all-inclusive payment that includes all aspects of providing the service, including the following:

- Meeting the requirements for every ODA-certified provider in OAC173-39-02.
- Maintaining adequate staffing levels and back-up plans for staff absences.
- Hiring qualified staff, including qualified aides and qualified supervisors. ODA's proposed amendment creates a new way for a person to qualify to be a homemaker supervisor: being an RN or LPN under the direction of an RN.
- Providing all staff orientation training, which ODA proposes to include the topic of person-centered planning.
- Maintaining 8 hours of continuing education for all staff. Generally, a provider can obtain the training necessary from training websites. The rule does not restrict the provider from seeking all training online.
- Performing supervisory duties.
- Verifying the provision of homemaker activities.

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.

The appendix to OAC[5160-1-06.1](#) establishes the maximum-possible payment of Medicaid funds the PASSPORT Program would make for a unit of homemaker activities at \$3.84 for every 15-minute unit. In 2015, the average that a provider billed for the service was \$3.50 per 15-minute unit.

CALENDAR YEAR 2015			
ODA-CERT. HOMEMAKER PROVIDERS	15-MINUTE UNITS BILLED	MAXIMUM-POSSIBLE PAYMENT PER UNIT	AVERAGE PROVIDER CHARGE PER UNIT
692	3,115,542	\$3.84	\$3.50

The fees for initial training and continuing education would vary because training organizations aren't required to use standard fees for their classes. A provider may obtain the training necessary to provide ILA activities online. [CareStar](#) and [Collins Learning](#) and are examples of online vendors. CareStar's fees are typically \$7.00 per course, but the price drops to \$5.75 per course if the courses are purchased in bundles of 12. Collins Learning's fees for "personal care home administrator" classes are \$17.99 per class or \$47.99 for a full year of unlimited continuing education courses.

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

ODA is not making any burdens upon providers that the provider would not face in the normal course of duty. Thus, the regulatory burden of providing homemaker activities, creating and retaining records related to the homemaker activities, and retaining records that document how the provider qualifies to provide homemaker activities is reasonable compared to the health and safety of individuals who receive long-term care.

It also seems reasonable to expect providers' employees to be adequately trained to provide homemaker activities. The low costs of training make doing so affordable. Additionally, ODA does not place any limits on the amount of training that a provider may take online.

Regulatory Flexibility

20. 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.

21. 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.

22. 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.

173-39-02.8

ODA provider certification: ~~Homemaker service~~homemaker.

- (A) ~~Homemaker (HMK)~~ "Homemaker" is means a service ~~designed to enable~~ enabling a consumer individuals to achieve and maintain ~~a~~ clean, safe and healthy ~~environment~~ environments, ~~assist~~ assisting the consumer individuals to manage ~~their~~ personal appointments and day-to-day household activities as authorized by ~~the~~ their case manager, and ~~ensure~~ ensuring that the consumer individuals maintains maintain the consumer's their current living ~~arrangement~~ arrangements. ~~HMK~~ The service consists of general household activities, such as meal preparation and routine household care when ~~the individual persons~~ regularly responsible for these activities ~~is~~ are temporarily absent or unable to manage the home. ~~HMK~~ Homemaker staff may act as travel attendants for ~~a consumer~~ individuals. Homemaker activities include the following:

(1) Assistance with meal planning.

(2) Meal preparation, grocery purchase planning, and assisting individuals with shopping and other errands.

(3) Laundry, including folding, ironing, and putting away laundry.

(4) House cleaning including dusting furniture, sweeping, vacuuming, and mopping floors; kitchen care including dishes, appliances, and counters; bathroom care; emptying and cleaning bedside commodes; changing bed linens; washing inside windows within reach from the floor; and removing trash.

Moved to (C),
near end of rule.

~~(B) One unit of homemaker service is fifteen minutes.~~

~~(C) Homemaker services include, but are not limited to, the following:~~

Moved to
become part of
definition in (A).

~~(1) Assistance with meal planning;~~

~~(2) Meal preparation, grocery purchase planning, and assisting consumers with shopping and other errands;~~

~~(3) Laundry, including folding, ironing, and putting away laundry; and,~~

~~(4) House cleaning, including, but not limited to, dusting furniture sweeping, vacuuming and mopping floors; kitchen care (including dishes, appliances and counters), bathroom care, emptying and cleaning bedside commodes; changing bed linens, washing inside windows within reach from the floor; and removing trash.~~

(B) Requirements for ODA-certified providers of homemaker:

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

Standard language for
many rules in OAC
Chapter 173-39.

Code.

~~(D)~~(2) Eligible providers of homemaker ~~services~~ are ODA-certified long-term care agency providers.

~~(E)~~(3) Service verification: ~~HMK providers must~~ The provider shall maintain a ~~consumer~~ record documenting each episode of ~~service-delivery~~ homemaker provided to each individual. The record ~~must~~ shall include the date of service ~~delivery~~, a description of the ~~service-tasks~~ activities performed, the name of the aide providing the ~~service(s)~~ activities, the aide's arrival and departure time, and the aide's written or electronic signature to verify the accuracy of the record. A provider that does not utilize an electronic verification system to document services and keep records ~~must~~ shall also obtain the ~~consumer's~~ individual's signature for each episode of service.

~~(F) HMK providers must demonstrate that they:~~

~~(1)~~(4) Availability: The provider shall maintain ~~Have~~ the ~~capacity~~ ability to ~~deliver~~ provide services the service at least five days per week; and shall possess a back-up plan to ensure the service is provided during staff absences.

Combined with
previous paragraph.

~~(2) Have a service back-up plan to ensure services are delivered during staff absence;~~

~~(3) Comply with and maintain written policies and procedures, as applicable, supporting the operation of the business and the provision of services. These policies and procedures must address:~~

~~(a) Reporting and documenting consumer incidents;~~

~~(b) Obtaining written permission from consumers to share information and/or release information to anyone;~~

~~(c) The content of consumer records, as well as the handling, storage and retention of records; and,~~

~~(d)~~(5) Provider policies: The provider shall develop written ~~Personnel~~ personnel requirements~~matters~~, including all the following:

~~(i)~~(a) Job descriptions for each position;

~~(ii)~~(b) ~~The documentation~~ Documentation of each employee's qualifications for the ~~service(s)~~ homemaker activities to be provided;

~~(iii)(c)~~ Performance appraisals for all ~~workers~~ staff.

~~(iv) Documentation of compliance with required staff orientation training; and;~~

~~(v) The employee code of ethics described in rule 173-39-02 of the Administrative Code.~~

~~(G)(6) Staff qualifications~~ HMK providers must demonstrate evidence of compliance with the following personnel requirements:

~~(1)(a)~~ Aides: HMK Homemaker aides ~~must~~ shall meet at least one ~~or more~~ of the following ~~minimum personnel~~ requirements:

~~(a)(i)~~ (i) Successful completion of the nurse aide competency evaluation program conducted by the Ohio department of health under section 3721.31 of the Revised Code within the last twenty-four months.

~~(b)(ii)~~ (ii) One year of supervised employment experience in a health or human services field, and successful written and skill testing by return demonstration.

~~(c)(iii)~~ (iii) Successful completion of the medicare nurse aide training and competency evaluation program for home health aides required under 42 C.F.R. Part 484 (October, 2016 edition), without a twenty-four month lapse in employment as a nurse aide or home health aide and compliance with any additional requirements under 42 C.F.R. Part 484 (October, 2016 edition).

~~(d)(iv)~~ (iv) Successful completion of a certified vocational program in a health-related field and successful written and skill testing by return demonstration.

~~(e)(v)~~ (v) Successful completion of at least twenty hours of training and skill testing by return demonstration that includes, ~~but is not limited to~~ all the following topics:

~~(1)(a)~~ (a) Universal precautions for infection control, including hand washing and the disposal of bodily waste.

~~(ii)~~(b) Meal preparation/nutrition that includes special diet preparation, grocery purchase planning and shopping; and other errands, such as picking up prescriptions~~;~~.

~~(iii)~~(c) Laundry, including folding, ironing, and putting away laundry~~;~~.

~~(iv)~~(d) Basic home safety~~;~~.

~~(v)~~(e) House cleaning skills that include dusting furniture; sweeping, vacuuming and washing floors, kitchen care (including washing dishes, appliances and counters), bathroom care, emptying and cleaning bedside commodes, changing bed linens, washing inside windows within reach from the floor, and removing trash~~;~~.

~~(vi)~~(f) Body mechanics~~;~~.

~~(vii)~~(g) Communication skills~~;~~.

~~(viii)~~(h) Emergency protocols~~;~~and.

~~(ix)~~(i) Documentation skills.

~~(f)(vi) Prior to the provision of services~~ Before providing homemaker to ~~a consumer~~ an individual, the provider ~~must~~ shall conduct written testing, and skill testing by return demonstration, of all ~~HMK staff homemaker aides~~ that are not listed on the Ohio department of health's nurse aide registry for all subject areas listed in paragraph ~~(G)(1)(e)~~ (D)(5)(a)(v) of this rule. The training and testing ~~must~~ shall be documented by the provider, and the documentation ~~must~~ shall include training site information, the date of training, the number of hours of training, a list of instruction materials and the subject areas covered, the qualifications of the trainer and the tester, the signatures of the trainer and tester verifying the accuracy of the record, and all testing results.

~~(2)(b) Supervisors: The HMK supervisor must have a bachelor's or associate's degree in a health or human services area or have a minimum of two years of work experience as a HMK.~~ Homemaker supervisors shall meet

at least one of the following requirements:

New means
by which one
may qualify
to be a
homemaker
supervisor.

(i) A bachelor's or associate's degree in a health and human services area.

→ (ii) A current, valid license to be an RN or an LPN under the direction of an RN.

(iii) At least two years of experience as a homemaker aide.

(c) All staff:

~~(3)~~ (i) Orientation: Prior to working with consumers, all employees who have face-to-face contact with consumers must receive orientation and training that addresses, at a minimum Before allowing any staff member to provide homemaker activities, the provider shall train the staff member on all the following:

(a) The provider's expectations of ~~employees~~ homemaker staff.

(b) The provider's ~~employee code of conduct~~ ethical standards, as required under rule 173-39-02 of the Administrative Code.

(c) An overview of the provider's personnel policies.

Moved 2
paragraphs
below.

→ ~~(d) Incident reporting procedures;~~

~~(e)~~ (d) The organization and lines of communication of the provider's agency ~~and the lines of communication; and,~~

(e) Incident-reporting procedures.

(f) Emergency procedures.

New orientation topic.

→ (g) Person-centered planning process.

~~(4)~~ (ii) Continuing education: The provider ~~must~~ shall assure and document a minimum of eight hours of continuing education for each ~~HMK~~ staff member every twelve months on topics listed in paragraph (B)(5)(c)(i) of this rule.

New

~~(H)~~ (7) Supervisory Requirements requirements:

(1)(a) The supervisor ~~must~~ shall complete and document a ~~consumer individual~~ home visit, which may occur at the initial ~~HMK homemaker~~ visit to the ~~consumer individual~~ to define the expected activities of the ~~HMK homemaker aide~~ and prepare a written activities plan consistent with the case manager authorized plan that has been completed by the case manager and the ~~consumer prior to consumer service initiation individual before the individual's first episode of service~~.

(2)(b) The supervisor ~~must~~ shall evaluate ~~HMK the homemaker aide's~~ compliance with the activities plan, ~~consumer the individual's~~ satisfaction, and job performance during a home visit with the ~~consumer individual~~ at least every ninety three days to evaluate the ~~HMK homemaker~~ aide's compliance with the plan. The ~~HMK homemaker~~ aide need not be present during the visit. The visit ~~must~~ shall be documented, including the date of the visit, the name of the ~~HMK homemaker~~ supervisor, name of the ~~consumer individual~~, and ~~must~~ shall include the signature of the ~~consumer individual~~ and the ~~HMK homemaker~~ supervisor or the electronic signature of the ~~HMK homemaker~~ supervisor.

(C) Units and rates:

Standard language for many rules in OAC Chapter 173-39.

(1) One unit of homemaker service equals fifteen minutes.

Moved from earlier in rule.

(2) The maximum rate allowable for a unit of homemaker activities is established in Appendix A to rule 5160-1-06.1 of the Administrative Code.

Standard language for many rules in OAC Chapter 173-39.

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

173-39-02.8

ODA provider certification: ~~Homemaker service~~homemaker.

- (A) ~~Homemaker (HMK)~~ "Homemaker" is means a service ~~designed to enable~~ enabling a ~~consumer~~ individuals to achieve and maintain ~~a~~ clean, safe and healthy ~~environment~~ environments, ~~assist~~ assisting the consumer ~~individuals~~ to manage ~~their~~ personal appointments and day-to-day household activities as authorized by ~~the~~ their case manager, and ~~ensure~~ ensuring that the consumer ~~individuals~~ ~~maintains~~ maintain the consumer's ~~their~~ current living ~~arrangement~~ arrangements. ~~HMK~~ The service consists of general household activities, such as meal preparation and routine household care when ~~the individual~~ persons regularly responsible for these activities ~~is~~ are temporarily absent or unable to manage the home. ~~HMK~~ Homemaker staff may act as travel attendants for ~~a consumer~~ individuals. Homemaker activities include the following:

(1) Assistance with meal planning.

(2) Meal preparation, grocery purchase planning, and assisting individuals with shopping and other errands.

(3) Laundry, including folding, ironing, and putting away laundry.

(4) House cleaning including dusting furniture, sweeping, vacuuming, and mopping floors; kitchen care including dishes, appliances, and counters; bathroom care; emptying and cleaning bedside commodes; changing bed linens; washing inside windows within reach from the floor; and removing trash.

Moved to (C),
near end of rule.

~~(B) One unit of homemaker service is fifteen minutes.~~

~~(C) Homemaker services include, but are not limited to, the following:~~

Moved to
become part of
definition in (A).

~~(1) Assistance with meal planning;~~

~~(2) Meal preparation, grocery purchase planning, and assisting consumers with shopping and other errands;~~

~~(3) Laundry, including folding, ironing, and putting away laundry; and,~~

~~(4) House cleaning, including, but not limited to, dusting furniture sweeping, vacuuming and mopping floors; kitchen care (including dishes, appliances and counters), bathroom care, emptying and cleaning bedside commodes; changing bed linens, washing inside windows within reach from the floor; and removing trash.~~

(B) Requirements for ODA-certified providers of homemaker:

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

Standard language for
many rules in OAC
Chapter 173-39.

Code.

~~(D)~~(2) Eligible providers of homemaker ~~services~~ are ODA-certified long-term care agency providers.

~~(E)~~(3) Service verification: ~~HMK providers must~~ The provider shall maintain a ~~consumer~~ record documenting each episode of ~~service delivery~~ homemaker activities provided to each individual. The record ~~must~~ shall include the date of service ~~delivery~~, a description of the ~~service tasks~~ activities performed, the name of the aide providing the ~~service(s)~~ activities, the aide's arrival and departure time, and the aide's written or electronic signature to verify the accuracy of the record. A provider that does not utilize an electronic verification system to document services and keep records ~~must~~ shall also obtain the ~~consumer's~~ individual's signature for each episode of service.

Draft during online public-comment period used *ability*. Adequate staffing levels matches language used in proposed amendments to ECL and ILA rules.

Combined with previous paragraph.

~~(F) HMK providers must demonstrate that they:~~

~~(+)~~(4) Availability: The provider shall maintain ~~Have the capacity~~ adequate staffing levels to ~~deliver~~ provide ~~services~~ the service at least five days per week; and shall possess a back-up plan to ensure the service is provided during staff absences.

~~(2) Have a service back up plan to ensure services are delivered during staff absence;~~

~~(3) Comply with and maintain written policies and procedures, as applicable, supporting the operation of the business and the provision of services. These policies and procedures must address:~~

~~(a) Reporting and documenting consumer incidents;~~

~~(b) Obtaining written permission from consumers to share information and/or release information to anyone;~~

~~(c) The content of consumer records, as well as the handling, storage and retention of records; and,~~

~~(d)~~(5) Provider policies: The provider shall develop written ~~Personnel~~ personnel requirements~~matters~~, including all the following:

~~(i)~~(a) Job descriptions for each position;.

~~(ii)~~(b) ~~The documentation~~ Documentation of each employee's qualifications for the ~~service(s)~~ homemaker activities to be provided;.

~~(iii)(c)~~ Performance appraisals for all ~~workers~~ staff.

~~(iv) Documentation of compliance with required staff orientation training; and;~~

~~(v) The employee code of ethics described in rule 173-39-02 of the Administrative Code.~~

~~(G)(6) Staff qualifications~~ HMK providers must demonstrate evidence of compliance with the following personnel requirements:

(a) Aides:

~~(+)(i) HMK Homemaker~~ aides ~~must~~ shall meet at least one ~~or more~~ of the following ~~minimum personnel~~ requirements:

Public comment-period draft used nurse aide competency evaluation program. This draft uses nurse aide training and competency evaluation program.

(a) Successful completion of the nurse aide training and competency evaluation program conducted by the Ohio department of health under section 3721.31 of the Revised Code within the last twenty-four months.

(b) One year of supervised employment experience in a health or human services field, and successful written and skill testing by return demonstration.

Public comment-period draft used nurse aide training and competency evaluation program. This draft uses training and competency evaluation program.

(c) Successful completion of the medicare training and competency evaluation program for home health aides required under 42 C.F.R. Part 484 (October, 2016 edition); without a twenty-four month lapse in employment as a nurse aide or home health aide and compliance with any additional requirements under 42 C.F.R. Part 484 (October, 2016 edition).

(d) Successful completion of a certified vocational program in a health-related field and successful written and skill testing by return demonstration.

(e) Successful completion of at least twenty hours of training and skill testing by return demonstration that includes, ~~but is not limited to~~ all the following topics:

(i) Universal precautions for infection control, including

hand washing and the disposal of bodily waste~~;~~.

(ii) Meal preparation/nutrition that includes special diet preparation, grocery purchase planning and shopping; and other errands, such as picking up prescriptions~~;~~.

(iii) Laundry, including folding, ironing, and putting away laundry~~;~~.

(iv) Basic home safety~~;~~.

(v) House cleaning skills that include dusting furniture; sweeping, vacuuming and washing floors, kitchen care (including washing dishes, appliances and counters), bathroom care, emptying and cleaning bedside commodes, changing bed linens, washing inside windows within reach from the floor, and removing trash~~;~~.

(vi) Body mechanics~~;~~.

(vii) Communication skills~~;~~.

(viii) Emergency protocols~~;~~ and~~;~~.

(ix) Documentation skills.

Numbering problem in current rule and in public comment-period draft now corrected.

~~(f)(ii)~~ ~~Prior to the provision of services~~ Before providing homemaker activities to a consumer an individual, the provider ~~must~~ shall conduct written testing, and skill testing by return demonstration, of all ~~HMK-staff~~ homemaker aides ~~that are~~ not listed on the Ohio department of health's nurse aide registry for all subject areas listed in paragraph ~~(G)(1)(e)~~ (D)(6)(a)(i)(e) of this rule. The training and testing ~~must~~ shall be documented by the provider, and the documentation ~~must~~ shall include training site information, the date of training, the number of hours of training, a list of instruction materials and the subject areas covered, the qualifications of the trainer and the tester, the signatures of the trainer and tester verifying the accuracy of the record, and all testing results.

Citation in public comment-period draft now corrected.

~~(2)(b) Supervisors: The HMK supervisor must have a bachelor's or associate's~~

~~degree in a health or human services area or have a minimum of two years of work experience as a HMK.~~ Homemaker supervisors shall meet at least one of the following requirements:

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(c) An overview of the provider's personnel policies;

Moved 2 paragraphs below.

→ ~~(d) Incident reporting procedures;~~

~~(e)(d)~~ The organization and lines of communication of the provider's agency ~~and the lines of communication; and,~~

(e) Incident-reporting procedures.

(f) Emergency procedures.

New orientation topic.

→ (g) Person-centered planning process.

~~(4)(ii) Continuing education:~~ The provider ~~must~~ shall assure and document a minimum of eight hours of continuing education for each ~~HMK~~ staff member every twelve months on topics listed in paragraph (B)(6)(c)(i) of this rule.

← New

↑
Citation in public comment-period draft now corrected.

~~(H)~~(7) Supervisory ~~Requirements~~ requirements:

~~(1)~~(a) The supervisor ~~must~~ shall complete and document a ~~consumer~~ individual home visit, which may occur at the initial ~~HMK homemaker~~ visit to the ~~consumer individual~~ to define the expected activities of the ~~HMK homemaker aide~~ and prepare a written activities plan consistent with the case manager authorized plan that has been completed by the case manager and the ~~consumer prior to consumer service initiation individual before the individual's first episode of service.~~

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Moved from earlier in rule.