



Common Sense Initiative

Mike DeWine, Governor
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Business Impact Analysis

Agency, Board, or Commission Name: The Ohio Department of Health

Rule Contact Name and Contact Information:

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Regulation/Package Title (a general description of the rules' substantive content):

3701-45 Ohio Hearing Aid Assistance Program

Rule Number(s): 3701-45-01, 3701-45-02, 3701-45-03 and 3701-45-04.

Date of Submission for CSI Review: _____

Public Comment Period End Date: _____

Rule Type/Number of Rules:

New/___rules

No Change/___rules (FYR? ___)

Amended/X rules (FYR?)

Rescinded/ rules (FYR?)

The Common Sense Initiative is established in R.C. 107.61 to eliminate excessive and duplicative rules and regulations that stand in the way of job creation. Under the Common Sense Initiative, agencies must balance the critical objectives of regulations that have an adverse impact on business with the costs of compliance by the regulated parties. Agencies should promote transparency, responsiveness, predictability, and flexibility while developing regulations that are fair and easy to follow. Agencies should prioritize compliance over punishment, and to that end, should utilize plain language in the development of regulations.

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Reason for Submission

1. **R.C. 106.03 and 106.031 require agencies, when reviewing a rule, to determine whether the rule has an adverse impact on businesses as defined by R.C. 107.52. If the agency determines that it does, it must complete a business impact analysis and submit the rule for CSI review.**

Which adverse impact(s) to businesses has the agency determined the rule(s) create?

The rule(s):

- a. ☐ **Requires a license, permit, or any other prior authorization to engage in or operate a line of business.** ✓
- b. ☐ **Imposes a criminal penalty, a civil penalty, or another sanction, or creates a cause of action for failure to comply with its terms.**
- c. ☐ **Requires specific expenditures or the report of information as a condition of compliance.**
- d. ☐ **Is likely to directly reduce the revenue or increase the expenses of the lines of business to which it will apply or applies.** ✓

Regulatory Intent

2. **Please briefly describe the draft regulation in plain language.**

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

The Ohio Hearing Aid Assistance Program (OHAAP) provides assistance to families with children, birth to twenty-one years of age, with hearing impairments, to purchase hearing aids, assistive listening devices, earmolds, external cochlear implant processor replacements, and/or hearing aid batteries. The rule package outlines the definitions and requirements for the administration and application process for the Ohio hearing aid assistance program.

- **Rule 3701-45-01** (Definitions) provides definitions and clarification for any and all language used in the rule package with specific programmatic meaning.
- **Rule 3701-45-02** (Ohio hearing aid assistance program) outlines requirements for administering the Ohio hearing aid assistance program.
- **Rules 3701-45-03** (Eligibility requirements for financial assistance) outlines the eligibility requirements for families to qualify for assistance through the Ohio hearing aid assistance program.

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- **Rule 3701-45-04** (Requirements for audiologists and hearing aid dealers and fitters) outlines the eligibility requirements for audiologists and hearing aid dealers and fitters to utilize the Ohio hearing aid assistance program.

3. Please list the Ohio statute(s) that authorize the agency, board or commission to adopt the rule(s) and the statute(s) that amplify that authority.

The authority is in temp law Section 291.20 AM Sub HB 166 GA-133 that was renewed with this budget period.

4. 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.

No

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

There is no exceeding the federal requirement since there is no federal requirement.

6. 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 Ohio Hearing Assistance Program has been functioning in accordance with the guidance set forth within the earmark as well as the rules established to provide assistance to eligible families with children up to twenty-one years of age with hearing impairments to purchase hearing aids and assistive listening devices.

These rules establish the standards for implementing this program and are designed to assure the achievement of goal-related outcome for the participants.

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

ODH will monitor the applications submitted for funds under the Ohio Hearing Aid Assistance Program to ensure compliance with outlined regulation. In addition, ODH will monitor the requirements for audiologists and hearing aid dealers and fitters participating in the program to ensure compliance with outlined requirements. ODH will also highlight the

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successes of the Ohio Hearing Aid Assistance Program by identifying the number of families who utilized services during each state fiscal year in addition to how the families utilized services through an annual report.

- 8. Are any of the proposed rules contained in this rule package being submitted pursuant to R.C. 101.352, 101.353, 106.032, 121.93, or 121.931?**

If yes, please specify the rule number(s), the specific R.C. section requiring this submission, and a detailed explanation.

No

Development of the Regulation

- 9. 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.

Numerous stakeholders were included throughout the time that ODH worked on revising these regulations through electronic communication and surveys. ODH sought direction from the Infant Hearing Subcommittee. ODH also sought input from current Ohio Hearing Aid Assistance Providers as well as asked the Ohio Speech and Hearing Professionals Board to also provide input. Their direction and comments affected the draft of revised regulation in that numerous changes were made to language and level of detail provided. In addition to the subcommittee, current providers who administer services under the Ohio Hearing Aid Assistance Program provided feedback that was incorporated in the amended rules.

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

As noted in question 9, many stakeholders were engaged throughout the process of revising these rules. Feedback was incorporated into the draft rules.

- 11. 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?**

Scientific data does not apply for these rules revisions.

- 12. What alternative regulations (or specific provisions within the regulation) did the Agency consider, and why did it determine that these alternatives were not**

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appropriate? If none, why didn't the Agency consider regulatory alternatives?

None, the earmark language requires ODH to adopt rules for family eligibility.

13. 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.

No, the intent of this rule package was to identify definitions and process guidelines for the distribution of funding for the Ohio Hearing Aid Assistance Program.

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

ODH is the agency with funding and authority for the Ohio Hearing Aid Assistance program; therefore, overlap is unlikely.

15. 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.

Once the rule revisions are approved, ODH will provide training on the revised rules for all parties impacted, including providers. The training on the revised rules will include a variety of written materials, webinars and electronic methods of delivery.

To ensure that the regulation is applied consistently throughout Ohio, ODH will continue to monitor applications submitted as well as identified trends through annual reporting. The audiology consultant is available by phone and email for program-related technical assistance and will conduct on-site training site visits as needed.

Adverse Impact to Business

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

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- (a) Impacted parties include but are not limited to hearing aid fitters and dealers, audiologists and families.
- (b) These rules establish eligibility standards and requirements for applying for funding assistance through the Ohio Hearing Aid Assistance Program. Audiologists and/or Hearing aid fitters and dealers are responsible for completing and sending application materials.
- (c) ODH estimates indicates a small commitment of time for the completion and submission of the application materials.

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

These revised rules have minimal adverse impact to the audiologists and hearing aid fitters and dealers. The rules revisions were made to correctly reference the Ohio speech and hearing professionals board, hearing disorders and hearing services. Links were also updated to access referenced information. The scope and implementation of the Ohio Hearing Aid Assistance Program has not revised nor has the application process in order to limit impact to complete the one page application process.

Regulatory Flexibility

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

There are no requirements in these rules which prohibit small businesses from conducting from conducting their business without the money distributed by the ODH.

19. 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?

These rules do not impose fines or civil penalties.

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

The ODH has already planned for training (web-based) for audiologists and hearing aid fitters and dealers on how the revised rules will impact each domain. Technical assistance and program consultation on the revised rules will be available from the audiology consultant as requested.

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