

Rule Summary and Fiscal Analysis (Part A)**Department of Aging**

Agency Name

Division

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173-14-28

Rule Number

NEW

TYPE of rule filing

Rule Title/Tag Line

Bed fee collection guidelines.**RULE SUMMARY**

1. Is the rule being filed for five year review (FYR)? **No**
2. Are you proposing this rule as a result of recent legislation? **No**
3. Statute prescribing the procedure in accordance with the agency is required to adopt the rule: **119.03**
4. Statute(s) authorizing agency to adopt the rule: **173.01, 173.02, 173.26; Section 305(a)(1)(C) Older Americans Act of 1965, as amended by the Older Americans Act Reauthorizat on Act of 2016, 79 Stat. 210, 42 USC 3001; 45 CFR 1321.11, 1324.11(e), 1324.13(b)(1), 1324.15(b).**
5. Statute(s) the rule, as filed, amplifies or implements: **173.26**
6. State the reason(s) for proposing (i.e., why are you filing,) this rule:

ODA proposes adopting this new rule to replace OAC173-14-27 which ODA simultaneously proposes to rescind. Additionally, as part of the 5-year review, ODA proposes for the new rule to contain amendments in comparison to the current

rule.

7. If the rule is an AMENDMENT, then summarize the changes and the content of the proposed rule; If the rule type is RESCISSION, NEW or NO CHANGE, then summarize the content of the rule:

OVERVIEW

This rule implements the bed fee requirements of ORC§173.26. In doing so, it establishes deadlines for nursing homes and residential care facilities (RCFs) to pay an annual \$6 per bed fee (bed fee). The state treasurer deposits bed fees into the State Long-Term Care Ombudsman Program Fund which ORC§173.26 dedicates to paying the operating costs for Ohio's regional long-term care ombudsman programs.

SPECIFIC AMENDMENTS

ODA proposes to change the rule number from 173-14-27 to 173-14-28. Because the electronic rule filing (ERF) system does not presently allow state agencies to amend rule numbers, ODA must rescind the current rule and adopt a new rule under the new number.

ODA proposes for the new rule (OAC173-14-28), in comparison to the current rule it would replace (OAC173-14-27), to have the following differences:

1. The new rule would no longer require nursing homes and RCFs to pay the long-term care ombudsman because such facilities must pay the state treasurer.
2. ORC§173.26 requires ODA to establish the deadlines for nursing homes and RCFs to pay the annual \$6 per bed fee (bed fee). The section requires ODA to establish a deadline for paying the bed fee on time. The section requires ODA to double the fee if not paid before 90 days after deadline.

Part of establishing the deadline is determining when to certify (i.e., report) to the Ohio Attorney General that his office must collect an overdue bed fee obligation. The current rule requires ODA to certify for collection from the Ohio Attorney General bed-fee obligations unpaid 45 days after the invoice date. In the new rule, ODA proposes to extend the time between the invoice date and the day it certifies from 45 after the deadline (i.e., 75 days after the invoice date) to 120 days after the invoice date.

3. The new rule would have basic language improvements such as the following:

- * Consistently use "invoice," not "invoice" and "billing statement."

- * In (C), replace "a required payment" with "the bed fee." Also, at the end of the sentence, replace "payment" with "amount."

* In (D), replace "payment" with "bed fee."

* Delete last 3 paragraphs of (D) for redundancy. ORC§131.02 covers these topics.

8. If the rule incorporates a text or other material by reference and the agency claims the incorporation by reference is exempt from compliance with sections 121.71 to 121.74 of the Revised Code because the text or other material is **generally available** to persons who reasonably can be expected to be affected by the rule, provide an explanation of how the text or other material is generally available to those persons:

This response left blank because filer specified online that the rule does not incorporate a text or other material by reference.

9. If the rule incorporates a text or other material by reference, and it was **infeasible** for the agency to file the text or other material electronically, provide an explanation of why filing the text or other material electronically was infeasible:

This response left blank because filer specified online that the rule does not incorporate a text or other material by reference.

10. If the rule is being **rescinded** and incorporates a text or other material by reference, and it was **infeasible** for the agency to file the text or other material, provide an explanation of why filing the text or other material was infeasible:

Not Applicable.

11. If **revising** or **refiling** this rule, identify changes made from the previously filed version of this rule; if none, please state so. If applicable, indicate each specific paragraph of the rule that has been modified:

Not Applicable.

12. Five Year Review (FYR) Date:

(If the rule is not exempt and you answered NO to question No. 1, provide the scheduled review date. If you answered YES to No. 1, the review date for this rule is the filing date.)

NOTE: If the rule is not exempt at the time of final filing, two dates are required: the current review date plus a date not to exceed 5 years from the effective date for Amended rules or a date not to exceed 5 years from the review date for No Change rules.

FISCAL ANALYSIS

13. Estimate the total amount by which *this proposed rule* would **increase / decrease** either **revenues / expenditures** for the agency during the current biennium (in dollars): Explain the net impact of the proposed changes to the budget of your agency/department.

This will have no impact on revenues or expenditures.

\$0.00

ODA anticipates adopting this new rule will have no impact upon the biennial budget the Ohio General Assembly established for ODA primarily because (1) adopting this new rule would replace a similar rule ODA simultaneously proposes to rescind and (2) ODA is not changing the bed fee. (ORC§173.26 establishes the bed fee.)

14. Identify the appropriation (by line item etc.) that authorizes each expenditure necessitated by the proposed rule:

4C40 490609 Regional Long-Term Care Ombudsman Program

15. Provide a summary of the estimated cost of compliance with the rule to all directly affected persons. When appropriate, please include the source for your information/estimated costs, e.g. industry, CFR, internal/agency:

This rule impacts Ohio's nursing homes and RCFs. Presently, Ohio has almost 1,000 nursing homes and over 600 RCFs. The primary cost of compliance is the fee itself. ORC§173.26 requires nursing homes and RCFs to pay an annual \$6-per-bed fee. For more information on the cost of compliance, please review the BIA, especially ODA's responses to BIA questions #14 and #15.

16. Does this rule have a fiscal effect on school districts, counties, townships, or municipal corporations? **No**

17. Does this rule deal with environmental protection or contain a component dealing with environmental protection as defined in R. C. 121.39? **No**

S.B. 2 (129th General Assembly) Questions

18. Has this rule been filed with the Common Sense Initiative Office pursuant to R.C. 121.82? **Yes**

19. Specific to this rule, answer the following:

A.) Does this rule require a license, permit, or any other prior authorization to engage in or operate a line of business? **No**

B.) Does this rule impose a criminal penalty, a civil penalty, or another sanction, or create a cause of action, for failure to comply with its terms? **Yes**

This rule implements a statutory penalty found in ORC§173.26 for late payments of the annual bed fee.

C.) Does this rule require specific expenditures or the report of information as a condition of compliance? **Yes**

This rule implements a statutory fee requirement. ORC§173.26 requires nursing homes and RCFs to pay an annual \$6-per-bed fee. For more information on specific expenditures, please review the BIA, especially ODA's responses to BIA questions #14 and #15.