

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

Agency Name

Division

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**173-3-06.4**

Rule Number

**AMENDMENT**

TYPE of rule filing

Rule Title/Tag Line

**Homemaker service.****RULE SUMMARY**

1. Is the rule being filed consistent with the requirements of the RC 119.032 review? **Yes**

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, 173.04, 173.392, Section 305(a)(1)(C) of the Older Americans Act of 1965, 79 Stat. 210, 42 U.S.C. 3001, as amended in 2006; 45 C.F.R. 1321.11 (October 1, 2012 edition)**

5. Statute(s) the rule, as filed, amplifies or implements: **173.04, 173.392, Sections 321(a)(1) and (a)(5)(C) of the Older Americans Act of 1965, 79 Stat. 210, 42 U.S.C. 3001, as amended in 2006**

6. State the reason(s) for proposing (i.e., why are you filing,) this rule:

Section 119.032 of the Revised Code requires ODA to review rules 173-3-06.2, 173-3-06.3, 173-3-06.4, and 173-3-06.5 of the Administrative Code no later than the rules' assigned review dates. Accordingly, ODA has reviewed the rules before their review dates and is now proposing to amend the rules.

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:

ODA is proposing to amend this rule to:

- \* Incorporate language from more-recently adopted rules that clearly states the requirement for providers to also comply with rule 173-3-06 of the Administrative Code
- \* Replace outdated "document maintenance" language with "service verification" and "records retention" language that is found in more-recently filed rules. In doing so, ODA would no longer appear to require paper records to verify that the services were performed pursuant to the rules.
- \* Add language to state that (1) ODA would allow electronic records and (2) directs the provider to the rule that says for how long the provider must retain records. This involves moving the language in paragraph (B)(1)(c) of the rule to (B)(6)(a) of the rule. The proposed new language makes the rules uniform with rules 173-3-06.2 and 173-39-02.11 of the Administrative Code, as well as other more-recently adopted rules.
- \* Remove, in paragraph (B)(3) of the rule, language that requires a provider to publish a written manual of its policies and procedures. This involves replacing "employee manual" with "policies and procedures." It also involves removing "a written manual of" before "policies and procedures."
- \* Clarify to whom the provider must make its policies and procedures available.
- \* Use uniform terminology between this rule and rule 173-3-06.5 of the Administrative Code. This would involve replacing "employee code of ethics" with "employee ethical standards."
- \* Replace "he/she" with "he or she" and "his/her" with "his or her."

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. 119.032 Rule Review Date: **9/3/2013**

(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 estimates that the proposed amendment of this rule would have no impact upon the biennial budget that the Ohio General Assembly established for ODA in H.B. No. 59 (130th G.A.).

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

GRF-490-411 Senior Community Services.

3220-490-618 Federal Aging Grants.

GRF-490-411 Senior Community Services.

GRF-490-414 Alzheimer's Respite.

3220-490-618 Federal Aging Grants.

3M40-490-612 Federal Independence Services.

3M40-490-612 Federal Independence Services.

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:

ODA estimates that there is no cost of compliance to any person associated with the proposed amendment of this rule. Please see the business impact analysis for detailed information--especially the details under question #14.

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? **Yes**

To be reimbursed for providing homemaker services, a provider must agree to provide services that comply with this rule. One requirement of this rule is to have a provider agreement with an area agency on aging that includes the mandatory clauses in rule 173-3-06 of the Administrative Code.

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? **No**

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

The provider must retain records to verify how it provided homemaker services to each consumer and how its homemaker aides qualify to be homemaker aides.