

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

Agency Name

Division

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173-3-06.6

Rule Number

NEW

TYPE of rule filing

Rule Title/Tag Line

Transportation service.**RULE SUMMARY**

1. Is the rule being filed consistent with the requirements of the RC 119.032 review? **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: **173.02; 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**

5. Statute(s) the rule, as filed, amplifies or implements: **173.392; Section 213.20 JCFS COMMUNITY OPTIONS of Am. Sub. H. B. No. 119 (127th G.A.); Sections 321, 414, and 416 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:

ODA is proposing this new rule as part of a larger effort to codify ODA's standards for agreements between AAAs and providers who are not providing services under

a Medicaid-funded program (i.e., providers who are non-certified providers under section 173.392 of the Revised Code). This effort will bring ODA into compliance with section 173.392 of the Revised Code, Section 305 (a)(1)(C) of the Older Americans Act, and 45 C.F.R. 1321.11.

As part this effort, ODA has decided to present the rules of this chapter in a new order. Accordingly, ODA is proposing to rescind rule 173-3-02 of the Administrative Code (the current rule on the transportation service) and, simultaneously, ODA is proposing to adopt this rule as the new rule on transportation service.

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:

This proposed new rule regulates a transportation service for a non-certified provider who is paid through means of a entering into a provider agreement with an AAA. Specifically, the rule:

1. Defines the term "transportation service";
2. Itemizes the minimum requirements for a transportation service, including general requirements, vehicle inspection requirements, and driver qualifications; and,
3. Establishes the unit of a transportation service.

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:

On January 5, 2009, ODA refiled this proposed new rule to:

1. Replace "Availability: An agency provider shall possess a back-up plan for providing the service when a driver or vehicle is unavailable. A self-employed provider shall possess a back-up plan for providing the service when he/she or his/her vehicle is unavailable" in paragraph (B)(1)(b) of the rule with "Availability: An agency provider shall possess a back-up plan for times when a driver or vehicle is unavailable. A self-employed provider shall possess a back-up plan for times when he/she or his/her vehicle is unavailable. The back-up plan may describe the process for providing the service when the driver or vehicle is unavailable or it may describe the process for notifying the consumer that a driver or vehicle is unavailable."

2. Change "To and from vehicle: As part of each service provided, the driver shall help the consumer to safely transfer between the pick-up point and the vehicle, to safely enter and exit the vehicle, and to safely transfer between the vehicle and the destination point." in paragraph (B)(1)(c) of the rule to "Into and out of vehicle: As part of each service provided, the driver shall help the consumer to safely enter and exit the vehicle. The agency provider shall maintain a policy for drivers that lists any additional responsibilities assigned to the driver by the provider agreement (e.g., helping a consumer from the door of their home to the vehicle or helping a consumer from inside their home to the vehicle). The agency provider shall inform every consumer of this policy before providing the service to the consumer (e.g., 'Our driver will only pick you up if you meet him/her at the curb' or 'Our driver will only pick you up if you meet him/her at the door of your home'). The self-employed provider shall maintain a policy that lists any additional responsibilities assigned to him/her by the provider agreement. The self-employed provider shall inform every consumer of this policy before providing the service to the consumer (e.g., 'I will only pick you up if you meet me at the curb' or 'I will only pick you up if you meet me at the door of your home')."

3. Replace "preventative maintenance schedule" in paragraph (B)(2)(a) of the rule with "preventative-maintenance schedule."

4. Change the URL in paragraphs (B)(2)(a)(i) and (B)(2)(a)(ii) of the rule to "<http://www.aging.ohio.gov/information/rules/forms.aspx>" because, before ODA adopts this rule, It will have launched its new web site and that will be the new

URL.

5. Replace "(B)(2)(a)" in paragraph (B)(2)(b) with "(B)(2)(a)(i)"
6. Delete "If the vehicle has a wheelchair lift, the provider shall" which, in the original-filed version was paragraph (B)(2)(c) of the rule. (The requirements for inspecting a wheelchair lift on a vehicle are part of the "Pre-Trip Vehicle Inspection" on form ODA0008.)
7. Insert "drivers" before "home state" in paragraph (B)(3)(a)(i) of the rule.
8. Delete "and," at the end of paragraph (B)(3)(a)(v) of the rule, and add a new paragraph after paragraph (B)(3)(a)(v) that says, "Possess the ability to comply with paragraph (B)(1)(c) of this rule; and,"
9. Replace "Regular" with "Pre-Trip" in paragraph (B)(3)(a)(vii) of the rule.
10. Replace "(B)(2)(b)" with "(B)(2)(a)(ii)" in paragraph (B)(3)(a)(vii) of the rule.
11. Replace "passenger assistance training" with "passenger-assistance training" in paragraph (B)(3)(b)(ii) of the rule.
12. Add "(e.g., ice on steps)" after "environmental concerns affecting consumers" in paragraph (B)(3)(b)(ii)(c) of the rule.
13. Replace "comply that paragraph" in paragraph (B)(3)(c)(ii) of the rule with "comply with paragraph."
14. Replace "defensive driving course" in paragraph (B)(3)(c)(ii) of the rule with "defensive-driving course."
15. Replace "fully allocated costs" in paragraph (C)(2) of the rule with "fully-allocated costs."
16. Update this RSFA.

12. 119.032 Rule Review 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 does not anticipate that the proposed adoption of this new rule would have any impact on the biennial budget established for ODA by the General Assembly because this proposed new rule should not create any expenses unforeseen when the General Assembly appropriate funds to ODA in Am. Sub. H. B. No. 119 (127th G. A.). This is especially true since ODA is proposing to adopt his new rule to replace a substantially similar rule.

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

322-490-618 Federal Aging Grants.

3M3-490-611 Federal Aging Nutrition.

3M4-490-612 Federal Independence Services

GRF-490-411 Senior Community Services.

GRF-490-414 Alzheimer's Respite

GRF-490-416 JCFS Elderly Transportation.

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 will be no cost of compliance to any directly-affected person as a result of the adoption of this rule. A consumer is not required to pay for a transportation service and thus has no cost of compliance. A provider who enters into a provider agreement under Chapter 173-3 of the Administrative Code to provide a transportation service is reimbursed for his/her fully-allocated costs, meaning any costs incurred by complying with this rule are compensated by funds administered under the chapter. Additionally, the provider sets the rate of reimbursement since he/she bids on the opportunity to win the provider agreement through a competitive-bidding process.

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**