

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

Agency Name

Division

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173-3-06

Rule Number

AMENDMENT

TYPE of rule filing

Rule Title/Tag Line

Mandatory clauses.**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? **Yes**

Bill Number: **HB59**General Assembly: **130**Sponsor: **Amstutz**

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, 2013 edition).**

5. Statute(s) the rule, as filed, amplifies or implements: **173.04, 173.392; Section 209.30 (SENIOR COMMUNITY SERVICES) of H.B.59 (130th).**

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

ODA is filing this rule as part of a larger rule package that involves amending the rules in the package in 5 different ways:

1. H.B.59 renumbered many sections of the Ohio Revised Code. The changes took effect on September 30. Therefore, ODA is proposing to amend rules to make corresponding updates to the Ohio Administrative Code.
2. H.B.59 transformed the Dept. of Job and Family Services' Office of Medical Assistance into the Ohio Dept. of Medicaid. On October 1, the Legislative Service Commission assigned new rule numbers to the related Medicaid rules. As a result, ODA must make corresponding amendments to use the new rule numbers.
3. Section 121.72 of the Revised Code requires ODA to indicate the edition of any C.F.R. that we cite in a rule and the latest date of any amendment to a federal act that we cite in a rule. Therefore, ODA is proposing to amend the rules to add edition and amendment dates.
4. Beginning on October 1, new rule 173-3-07 of the Administrative Code no longer refers to consumer cost-sharing policies. Instead the rule speaks of voluntary contributions and cost sharing apart from such policies. Therefore, ODA is proposing to update paragraphs (A)(10) and (C) in rule 173-3-06 of the Administrative Code to merely require providers to comply with rule 173-3-07 of the Administrative Code.
5. ODA is also proposing to clean up the rules, including [A] naming the programs that are regulated by the rule 173-3-06 of the Administrative Code; [B] starting the list under paragraph (A)(2) of rule 173-43-05 of the Administrative Code with "the following four criteria" and ending the paragraphs under paragraph (A)(2) of the rule with periods; [C] eliminating a defining clause in paragraph (A)(3) of rule 173-43-03 that is redundant of a definition in rule 173-43-01 of the Administrative Code; and [D] explaining that any person that ODA wants to certify to give Long-Term Care Consultations is subject to the criminal records check rules; [E] replace the pre-H.B. 153 (129th G.A.) language for "Assisted Living, Choices, and PASSPORT Medicaid-funded waiver programs" with "Medicaid-Funded Components of the Assisted Living, Choices and PASSPORT programs"; and [F] replace "he/she" in paragraph (A)(14) of rule 173-3-06 of the Administrative Code with "he or she."

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 the rule to:

1. Name the programs that the rule regulates in paragraph (A) of the rule.
 2. Update the citations to editions of the C.F.R. in paragraph (A)(6) of the rule.
 3. Update the language regarding consumer contributions in paragraphs (A)(10) and (C) of the rule to reflect the October 1 version of rule 173-3-07 of the Administrative Code.
 4. Replace "he/she" in paragraph (A)(14) of the rule with "he or she."
 5. Replace "173.394" in paragraph (A)(17) of the rule with "173.38" to incorporate the change H.B.59 made on September 29.
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:
- ODA does not need to attach the federal statutes or regulations to the rules because the U.S. Government Printing Office (GPO) publishes the federal statutes and regulations on the GPO website. On the GPO's website, statutes and rules are generally available to any person who reasonably can be expected to be affected by the rule.
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:
- ODA does not need to attach the federal statutes or regulations to the rules because the U.S. Government Printing Office (GPO) publishes the federal statutes and regulations on the GPO website. On the GPO's website, statutes and rules are generally available to any person who reasonably can be expected to be affected by the rule.
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:

On October 30, 2013, ODA revised a typographical error in the "rule amplifies" notations at the end of the rule. It involved replacing "0" with ")".

12. 119.032 Rule Review Date: 8/30/2015

(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 that the proposed amendments to this rule will have no effect upon the biennial budget that the Ohio General Assembly established for ODA in H.B.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.

GRF-490-414 Alzheimer's Respite.

3220-490-618 Federal Aging Grants.

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 directly-affected persons that would result from the adoption of the proposed amendments to the rule. Please see the BIA for more information.

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**

In order to engage in business providing community-based long-term care that an area agency on aging (AAA) procures, a provider must enter into a provider agreement with the AAA that contains all the clauses listed in the rule.

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**

Indirectly, paragraph (A)(22) of the rule speaks of potential disciplinary actions when it requires the AAA to describe the grounds (and the process) for modifying, suspending, or terminating a provider agreement.

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

Paragraph(A)(20) of the rule requires a provider to retain records related to costs, work performed, supporting documentation for payment of work performed, and all deliverables.