

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

Agency Name

Division

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**173-3-06**

Rule Number

**NEW**

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? **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; 173.04; 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**

5. Statute(s) the rule, as filed, amplifies or implements: **173.04; 173.392; Section 213.20 of Am. Sub. H. B. No. 119 (127th G.A.); 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 sections 173.04 and 173.392 of the Revised Code, Section 305 (a)(1)(C) of the Older Americans Act, and 45 C.F.R. 1321.11.

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 contains the minimum mandatory clauses that an AAA must insert into every provider agreement entered into under Chapters 173-3 and 173-4 of the Administrative Code.

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 November 28, 2008, ODA modified paragraph (A)(1) of the proposed new rule to create clarity. As previously written, the rule could have been interpreted to say that an AAA was required to put a clause into every provider agreement requiring

every provider to comply with every service specification rule. The intent is to have the AAA only put a clause in the provider agreement that requires a provider to comply with a service specification rule for a service the AAA is procuring from the provider.

The paragraph prior to revision read: "A clause requiring the provider to comply with any service specification listed in rules 173-3-06.1 (adult day service), 173-3-06.2 (chore service), 173-3-06.3 (home maintenance, modification, and repair services), 173-3-06.4 (homemaker service), 173-3-06.5 (personal care service), 173-3-06.6 (transportation service), 173-4-05 (meal service), 173-4-06 (nutrition consultation service), 173-4-07 (nutrition education service), 173-4-08 (nutrition health screening service), or 173-4-09 (grocery shopping assistance service) of the Administrative Code; or, if the service the AAA is procuring is not specified in the above rules, a specification of the service (e.g., a description of the service and any related conditions);"

The revised paragraph reads: "A clause requiring the provider to comply with rule 173-3-06.1 of the Administrative Code, if providing an adult day service; rule 173-3-06.2 of the Administrative Code, if providing a chore service; rule 173-3-06.3 of the Administrative Code, if providing a home maintenance, modification, or repair service; rule 173-3-06.4 of the Administrative Code, if providing a homemaker service; rule 173-3-06.5 of the Administrative Code, if providing a personal care service; rule 173-3-06.6 of the Administrative Code, if providing a transportation service; rule 173-4-05 of the Administrative Code, if providing a meal service; rule 173-4-06 of the Administrative Code, if providing a nutrition consultation service; rule 173-4-07 of the Administrative Code, if providing a nutrition education service; rule 173-4-08 of the Administrative Code, if providing a nutrition health screening service; or rule 173-4-09 of the Administrative Code, if providing a grocery shopping assistance service; or, if the service the AAA is procuring is not specified in the above rules, a clause requiring the provider to comply with a written specification of the service (e.g., a description of the service and any conditions for providing the service);"

#### 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.).

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 any service provided under Chapters 173-3 or 173-4 of the Administrative Code and thus has no cost of compliance. A provider who enters into a provider agreement under Chapters 173-3 or 173-4 of the Administrative Code is reimbursed for his/her fully-allocated costs, meaning any costs incurred by complying with this rule are compensated for by funds administered under Chapters 173-3 or 173-4 of the Administrative Code.

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**