

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

Agency Name

Division

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173-3-07

Rule Number

NEW

TYPE of rule filing

Rule Title/Tag Line

Consumer cost-sharing policies.**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 315 of the Older Americans Act of 1965, 79 Stat. 210, 42 U.S.C. 3001, as amended in 2006; Section 203.20 of Am. Sub. H.B. No. 119 of the 127th General Assembly**

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.

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 173-3-01 of the Administrative Code (the current rule on consumer cost-sharing policies) and, simultaneously, ODA is proposing to adopt this rule as the new rule on consumer cost-sharing policies.

Additionally, this new rule is being proposed to provide equal intervals in Table I that were not present in rule 173-3-01 of the Administrative Code.

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 implements the cost-sharing provisions of Section 315 of the Older Americans Act of 1965, as amended in 2006, and of section 203.20 of Amended Substitute House Bill 119 of the 127th General Assembly, such as delineating which services are subject to cost sharing and which services are not subject to cost sharing and what the suggested contribution is for a consumer based upon the consumer's self-reported income.

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 rule so that it would be refiled on the same day as the other proposed rules of chapter 173-3 of the Administrative Code. No changes were made to the rule.

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 this new rule to replace a substantially similar rule.

Under Section 315 of the Older Americans Act, the AAA or the provider who collects the revenue must use the revenue to supplement (not supplant) the funds so that more services identical to the service for which a contribution was received

may be provided by the AAA or the provider. The funds remain with the AAA or the provider until spent on providing services and is not transferred to ODA.

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

322-490-618 Federal Aging Grants.

3M4-490-612 Federal Independence Services.

GRF-490-411 Senior Community 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 will be no cost of compliance associated with the adoption of this proposed new rule. Nevertheless, this proposed would not have a cost of compliance for a provider because a provider of the services subject to this rule is reimbursed for fully-allocated costs, which would include the costs of implementing a consumer cost-sharing policy.

Of course, because many consumers contribute, this provides a net gain in income for the AAA or the provider that is used to expand their programs to provide more services. The consumer only contributes to the cost of the services received on a voluntary basis; therefore, ODA estimates that only on this basis would this proposed new rule have a cost of compliance for a consumer.

16. Does this rule have a fiscal effect on school districts, counties, townships, or municipal corporations? **Yes**

You must complete Part B of the Rule Summary and Fiscal Analysis in order to comply with Am. Sub. S.B. 33 of the 120th General Assembly.

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

Rule Summary and Fiscal Analysis (Part B)

1. Does the Proposed rule have a fiscal effect on any of the following?

(a) School Districts	(b) Counties	(c) Townships	(d) Municipal Corporations
No	Yes	Yes	Yes

2. Please provide an estimate in dollars of the cost of compliance with the proposed rule for school districts, counties, townships, or municipal corporations. If you are unable to provide an estimate in dollars, please provide a written explanation of why it is not possible to provide such an estimate.

ODA estimates that, because cost sharing provides money to any county, township, or municipality to whom a contribution is made, there is no cost of compliance associated with the adoption of this proposed new rule on consumer cost-sharing policies.

In fact, ODA estimates that any county, township, or municipality to whom a contribution is made receive revenue from participants who make cost-sharing payments. Under Section 315 of the Older Americans Act, the government entity receiving cost-sharing payments shall use those payments to provide more of the same service for which a payment was made. A government entity may not use the cost-sharing payments to supplant their expenditures.

Additionally, a county, township, or municipality that enters into a provider agreement with an AAA to provide a service competitively bids against other bidders for the provider agreement. In doing so, the government entity projects how much it will cost to provide all facets of the service, including the responsibility to ask consumers to cost share. Therefore, the government entity that enters into a provider agreement should not have any cost of compliance because the cost of asking consumers to cost share is reimbursed by the AAA.

3. If the proposed rule is the result of a federal requirement, does the proposed rule exceed the scope and intent of the federal requirement? **No**

4. If the proposed rule exceeds the minimum necessary federal requirement, please provide an estimate of, and justification for, the excess costs that exceed the cost of the federal requirement. In particular, please provide an estimate of the excess costs that exceed the cost of the federal requirement for (a) school districts, (b) counties, (c) townships, and (d) municipal corporations.

Not Applicable.

5. Please provide a comprehensive cost estimate for the proposed rule that includes the procedure and method used for calculating the cost of compliance. This comprehensive cost estimate should identify all of the major cost categories including, but not limited to, (a) personnel costs, (b) new equipment or other capital costs, (c) operating costs, and (d) any indirect central service costs.

ODA estimates that, because cost sharing provides money to any county, township, or municipality to whom a contribution is made, there is no cost of compliance associated with the adoption of this proposed new rule on consumer cost-sharing policies.

(a) Personnel Costs

ODA estimates that there are no new personnel costs associated with the adoption of this proposed new rule.

(b) New Equipment or Other Capital Costs

ODA estimates that there are no new equipment/capital costs associated with the adoption of this proposed new rule.

(c) Operating Costs

ODA estimates that there are no new operating costs associated with the adoption of this proposed new rule. In fact, ODA estimates that this rule should provide revenue for a county, township, or municipality who collects cost-sharing payments.

(d) Any Indirect Central Service Costs

ODA estimates that there are no new indirect costs associated with the adoption of this proposed new rule.

(e) Other Costs

ODA estimates that there are no other new costs associated with the adoption of this proposed new rule.

6. Please provide a written explanation of the agency's and the local government's ability to pay for the new requirements imposed by the proposed rule.

ODA estimates that, because cost sharing provides money to any county, township, or municipality to whom a contribution is made, there is no cost of compliance associated with the adoption of this proposed new rule on consumer cost-sharing policies.

7. Please provide a statement on the proposed rule's impact on economic development.

ODA estimates that this proposed new rule will have no positive nor negative impact upon economic development.