

Rule Summary and Fiscal Analysis

Part A - General Questions

Rule Number: 173-39-02.4

Rule Type: Amendment

Rule Title/Tagline: ODA provider certification: Choices home care attendant service (CHCAS).

Agency Name: Department of Aging

Division:

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I. Rule Summary

1. Is this a five year rule review? Yes
 - A. What is the rule's five year review date? 10/26/2020
2. Is this rule the result of recent legislation? No
3. What statute is this rule being promulgated under? 119.03
4. What statute(s) grant rule writing authority? 121.07, 173.01, 173.02, 173.391, 173.52, 173.522
5. What statute(s) does the rule implement or amplify? 173.39, 173.391, 173.52, 173.522; 42 C.F.R. 441.352
6. What are the reasons for proposing the rule?

ODA proposes to amend this rule as part of a larger rule package of rules from Chapter 173-39 of the Administrative Code that implements amendments related to the COVID-19 state of emergency and other matters.
7. Summarize the rule's content, and if this is an amended rule, also summarize the rule's changes.

This rule establishes the requirements for any provider of a choices home care attendant service who wants to be certified by ODA.

ODA proposes to amend this rule to do the following:

Replace "may not" in paragraph (A)(5) of the rule with "does not" because a definition describes what is, not what may or may not be done.

Replace the requirement to "furnish the service as agreed upon with the individual and as authorized in the individual's service plan" in paragraph (B)(1)(a) of the rule with a requirement in [renumbered] paragraph (B)(2) of the rule to "maintain availability to provide this service as agreed upon with the individual and as authorized in the individual's person-centered service plan."

Replace "Only a...that ODA certifies shall furnish the service" in paragraph (B)(2)(a)(i) of the rule with "Only a...that ODA certifies qualifies to provide this service" in [renumbered] paragraph (B)(4)(a)(i) of the rule.

Add a clarification to paragraph (B)(3)(a) of the rule [renumbered as paragraph (B)(4)(e)(i) of the rule] that verifying continuing education includes documenting evidence of successful completion of training on required on the form.

Delete paragraphs (B)(4) and (C)(4) of this rule as redundancies of rule 173-39-02 of the Administrative Code.

Make other non-substantive amendments such as updating terminology, moving paragraphs, renumbering paragraphs, and updating cross-references.

8. **Does the rule incorporate material by reference? Yes**
9. **If the rule incorporates material by reference and the agency claims the material is exempt pursuant to R.C. 121.75, please explain the basis for the exemption and how an individual can find the referenced material.**

This rule references forms that ODA publishes on its website. Readers may readily access them at any time free of charge.

10. **If revising or re-filing the rule, please indicate the changes made in the revised or re-filed version of the rule.**

ODA made a revised filing of this rule to replace "Wednesday" with "Monday" on the public hearing notice. In doing so, ODA did not revise the rule.

II. Fiscal Analysis

- 11. Please estimate the increase / decrease in the agency's revenues or expenditures in the current biennium due to this rule.**

This will have no impact on revenues or expenditures.

\$0.00

ODA's proposed amendment of this rule will have no impact upon the biennial budget that the Ohio General Assembly established for ODA in H.B. 166 (133rd G.A.).

- 12. What are the estimated costs of compliance for all persons and/or organizations directly affected by the rule?**

ODA's proposed amendment of this rule will create no new cost of compliance to the providers affected by this rule. Instead, it will give providers flexibility to maintain social distancing. For more information, please review the business impact analysis.

- 13. Does the rule increase local government costs? (If yes, you must complete an RSFA Part B). No**

- 14. Does the rule regulate environmental protection? (If yes, you must complete an RSFA Part C). No**

- 15. If the rule imposes a regulation fee, explain how the fee directly relates to your agency's cost in regulating the individual or business.**

Not Applicable

III. Common Sense Initiative (CSI) Questions

- 16. Was this rule filed with the Common Sense Initiative Office? Yes**

- 17. Does this rule have an adverse impact on business? Yes**

A. Does this rule require a license, permit, or any other prior authorization to engage in or operate a line of business? No

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**

This rule requires providers to comply with requirements that are common to providers of home care attendant service, including verifying that they provided the service for which they bill ODA. For more information, please review the business impact analysis.

- D. Is it likely that the rule will directly reduce the revenue or increase the expenses of the lines of business of which it will apply or applies? No**

IV. Regulatory Restrictions (This section only applies to agencies indicated in R.C. 121.95 (A))

- 18. Are you adding a new or removing an existing regulatory restriction as defined in R.C. 121.95? Yes**

- A. How many new regulatory restrictions do you propose adding? 0**

- B. How many existing regulatory restrictions do you propose removing? 3**

(B)(2)(a)(i) Only a participant-directed individual provider that ODA certifies or an agency provider that ODA certifies SHALL furnish the service.

(B)(3)(c)(ii) The provider SHALL retain the service task sheet in the individual's home records.

(B)(4) The provider SHALL continue to meet all the criteria under paragraph (B) of this rule in order to continue providing the service.