

## Rule Summary and Fiscal Analysis

### Part A - General Questions

**Rule Number:** 173-39-02.8

**Rule Type:** Amendment

**Rule Title/Tagline:** ODA provider certification: homemaker.

**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? 3/26/2024
2. Is this rule the result of recent legislation? Yes
  - A. If so, what is the bill number, General Assembly and Sponsor? HB 33 - 135  
- Edwards
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, 173.54, 173.543
5. What statute(s) does the rule implement or amplify? 173.39, 173.391, 173.52, 173.522; 42 CFR 441.352
6. Does the rule implement a federal law or rule in a manner that is more stringent or burdensome than the federal law or regulation requires? No
  - A. If so, what is the citation to the federal law or rule? Not Applicable
7. What are the reasons for proposing the rule?

This rule exists to establish the specific requirements to become, and to remain, an ODA-certified provider of a homemaker service.

**8. Summarize the rule's content, and if this is an amended rule, also summarize the rule's changes.**

This rule establishes the specific requirements to become, and to remain, an ODA-certified provider of a homemaker service. ODA proposes to amend this rule to achieve the following:

1. Delete the second sentence of paragraph (A)(1) of this rule because it is unnecessary since ODA lists homemaker activities in subparagraphs, but also add acting as a travel attendant in a subparagraph.
2. Indicate that laundry activities at a laundromat can be a homemaker activities if the individual does not have a working washer and dryer.
3. Reduce the use of unnecessary regulatory restrictions (e.g., "shall") in the rule to comply with RC Â§Â§ 106.03 and 121.951. This may account for many non-substantive amendments that comprise a majority of ODA's proposed amendments to this rule.
4. Allow a person to qualify to be a homemaker aide by completing training on only activities that a homemaker aide would provide as an aide. For example, a person who would provide only laundry as an aide would qualify to be an aide by successfully completing training and competency evaluation on laundry.
5. Add standard precautions for infection control to the list of orientation topics.
6. Reduce the in-service training hours for homemaker aides. Because ODA does not want providers to have more stringent in-service training requirements for their homemaker aides than for their PCAs, ODA voluntarily proposes to apply the training limitations for PCAs in RCÂ§173.525 to homemaker aides in rule 173-39-02.8 of the Administrative Code.
7. Remove the limitation for an LPN to be under the direction of an RN in order to supervise a homemaker aide since RCÂ§4723.01 allows other healthcare professionals other than an RN to provide such direction.
8. Indicate that a provider may retain evidence that a supervisor conducted a by telephone or video conference instead of obtaining a unique identifier of the individual. Examples of such evidence may include a report generated by telehealth software, phone records, or a clinical summary of the visit.

9. Make additional non-substantive improvements to this rule.

To review this rule in context, please review ODA's response to question #8 on the RSFA for rule 173-39-02.11 of the Administrative Code for an overview of this rule package.

9. **Does the rule incorporate material by reference? No**
10. **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.**

*Not Applicable*

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

ODA refiled this rule to achieve the following:

1. Establish a general standard that says, "No aide may provide an activity under paragraph (A)(1) of this rule unless the aide successfully completes training and competency evaluation on that activity." This action is in response to public hearing testimony from Freedom Caregivers.
2. Update many cross-references related to 1.
3. Allow a licensed independent social worker or licensed social worker to qualify to supervise a homemaker aide. This action is in response to public hearing testimony from the Van Wert County Council on Aging.

## **II. Fiscal Analysis**

12. **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

Amending this rule will have no impact upon the biennial budget that the Ohio General Assembly established for ODA in House Bill 33 (135th GA).

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

ODA estimates that adopting the proposed amendments to this rule will reduce the cost of compliance to providers. Please review ODA's response to questions #15, #16, and #17 for detailed information.

- 14. Does the rule increase local government costs? (If yes, you must complete an RSFA Part B). No**
- 15. Does the rule regulate environmental protection? (If yes, you must complete an RSFA Part C). No**
- 16. 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**

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

- 18. 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**

ODA estimates that adopting the proposed amendments to this rule will reduce the cost of compliance to providers. Please review ODA's response to questions #15, #16, and #17 for detailed information.

- 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 Restriction Requirements under S.B. 9. Note: This section only applies to agencies described in R.C. 121.95(A).**

**19. 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 to this rule? 0**

**B. How many existing regulatory restrictions do you propose removing from this rule? 6**

1. (B)(1) The provider SHALL comply with the requirements for every ODA-certified agency provider in rule 173-39-02 of the Administrative Code.

2. (B)(3) ...and SHALL possess a back-up plan to ensure the service is providing during staff absences.

3. (B)(5)(a) The provider SHALL only allow a person to serve as an aide if the person meets at least one of the following qualifications:

4. (B)(5)(a)(ii) The provider SHALL retain records for the name of the school or training organization, name of the course, training dates, and training hours successfully completed.

5. (B)(5)(b) The provider SHALL only allow a person to serve as an aide supervisor if the person meets one or more of the following qualifications:

6. The provider SHALL verify each episode of homemaker activities provided to each individual....

**C. If you are not removing existing regulatory restrictions from this rule, please list the rule number(s) from which you are removing restrictions.**

**D. Please justify the adoption of the new regulatory restriction(s).**

Not Applicable