

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

Agency Name

Division

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173-4-02

Rule Number

AMENDMENT

TYPE of rule filing

Rule Title/Tag Line

Eligibility criteria.**RULE SUMMARY**

1. Is the rule being filed consistent with the requirements of the RC 119.032 review? **Yes**

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; 173.392; 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: **173.392; Sections 336 and 339 of the 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:

In February of 2009, ODA adopted Chapters 173-3 and 173-4 of the Administrative Code to codify ODA's standards for agreements between AAAs and providers who provide services through an ODA program as non-certified providers under section 173.392 of the Revised Code (vs. providers who provide services through an ODA

Medicaid-funded program as certified providers under section 173.391 of the Revised Code). This effort brought ODA into compliance with sections 173.04 and 173.392 of the Revised Code; Section 305 (a)(1)(C) of the Older Americans Act of 1965, as amended; and 45 C.F.R. 1321.11.

ODA now proposes to amend rule 173-4-02 of the Administrative Code to clarify misleading wording. Before ODA codified its standards for home-delivered nutrition programs operated by non-certified providers, ODA Policy 304.03 listed the eligibility criteria for home-delivered meals. The old policy's requirement to receive home-delivered meals was to meet all the criteria in a list of criteria that was much longer than the list present in rule 173-4-02 of the Administrative Code, as adopted in 2009.

When ODA adopted rule 173-4-02 of the Administrative Code, the rule's intended requirement for home-delivered meals was to meet all the criteria listed under paragraph (B)(1) of the rule, which is why ODA included "and" at the end of paragraph (B)(1)(b) of the rule. Unfortunately, the words "one of" in paragraph (B)(1) of the rule conflict with the "and" in paragraph (B)(1)(b) of the rule. Therefore, for clarification, ODA is proposing to amend the rule to remove the misleading words "one of" from paragraph (B)(1) of the rule.

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:

The rule lists the eligibility criteria for a person who wishes to become a consumer of a congregate nutrition program or a home-delivered nutrition program.

ODA is proposing to amend the rule to delete "one of" in paragraph (B)(1) of the rule.

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 February 4, 2010, ODA revised this proposed amended rule to upload a revised public hearing notice into the Electronic Rule Filing (ERF) system to change the time of the public hearing from 1:30PM to 2:30PM.

12. 119.032 Rule Review Date: **2/4/2010**

(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 adoption of this proposed amended rule will have no impact upon biennial budget the Ohio General Assembly established for ODA.

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

3220-490-618 Federal Aging Grants.

3M40-490-612 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 to any directly-affected person as a result of the adoption of this proposed amended rule because (1) the rule merely presents the eligibility criteria for nutrition programs that are regulated under Chapter 173-4 of the Administrative Code and (2) the proposed amendment merely clarifies the meaning of the rule and does not change current practice.

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**