

Rule Summary and Fiscal Analysis

Part A - General Questions

Rule Number: 173-4-05

Rule Type: Amendment

Rule Title/Tagline: Older Americans Act nutrition program: nutrition projects.

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?** 8/14/2020
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, 173.392; 42 U.S.C. 3025; 45 C.F.R. 1321.11
5. **What statute(s) does the rule implement or amplify?** 173.39, 173.392; 42 U.S.C. 3030c-2, 3030e, 3030f, 3030g-21
6. **What are the reasons for proposing the rule?**

ODA is reviewing this rule before its 5-year deadline to do so. ODA also proposes to amend the rule to incorporate an amendment that the Supporting Older Americans Act of 2020 made to section 339 of the Older Americans Act of 1965, as codified in 42 U.S.C. 3030g-21.
7. **Summarize the rule's content, and if this is an amended rule, also summarize the rule's changes.**

This rule establishes the basic requirements for nutrition projects in Ohio paid by the Older Americans Act Nutrition Program.

ODA proposes to reword (A)(9)(c) to comply with an amendment that the Supporting Older Americans Act of 2020 made to 42 USC 3030g-21 that said "special dietary meals," which are meals in which the provider may adjust the nutrient content of the meal from the federal dietary reference intakes and Dietary Guidelines for Americans, include meals adjusted for cultural considerations, preferences, and medically-tailored meals.

8. **Does the rule incorporate material by reference? No**
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.**

Not Applicable

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 do the following:

1. Establish that the nutrition health screening that providers must offer to consumers at least annually is an in-person screening; but, during a state of emergency declared by the governor, the provider may offer the screening by telephone, video conference, or in person.
2. Establish that a provider must determine eligibility in person; but, during a state of emergency declared by the governor, the provider may determine eligibility by telephone, video conference, or in person..
3. Establish that, during a state of emergency declared by the governor, the provider is only required to provide the person direction the provider pledged to provide to the extent practicable during the state of emergency.
4. Update the 2 URLs to federal websites.
5. Replace occurrences of "continuing education" with "in-service training."
6. Establish that, during a state of emergency declared by the governor, that the provider is not responsible for providing employees orientation or in-service training.

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

The proposed amendment to this rule will not affect 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?**

The proposed amendment brings the rule into compliance with 42 USC 3030g-21 after the Supporting Older Americans Act of 2020 amended it. ODA's amendment of this rule does not create any cost of compliance to any directly-affected person or organization. Instead, it should give providers more flexibility in designing meals. For more information, please review the business impact analysis (BIA). For more information, please review ODA's responses to questions #16 and #17 on the BIA.

- 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

The rule requires providers to retain written records of each employee's completion of orientation and continuing education. For more information, please review the BIA.

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? No

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

Not Applicable

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

Not Applicable