

Rule Summary and Fiscal Analysis

Part A - General Questions

Rule Number: 173-51-03

Rule Type: Amendment

Rule Title/Tagline: Assisted living program (state-funded component): disenrollment and other adverse actions.

Agency Name: Department of Aging

Division:

Address: 246 N. High St. 1st Floor Columbus OH 43215-2046

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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?** 11/30/2021
2. **Is this rule the result of recent legislation?** No
3. **What statute is this rule being promulgated under?** 111.15
4. **What statute(s) grant rule writing authority?** 121.07, 173.01, 173.02, 173.543
5. **What statute(s) does the rule implement or amplify?** 173.543
6. **What are the reasons for proposing the rule?**

This rule exists to establish the process for disenrolling an individual from the state-funded component of the Assisted Living Program and other adverse actions.

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

This rule establishes the process for disenrolling an individual from the state-funded component of the Assisted Living Program and other adverse actions.

ODA proposes to amend this rule to achieve the following:

1. Indicate that the moratorium on disenrolling an individual during a state of emergency declared by the governor also applies during a federal public health emergency.
2. Remove or replace words that imply requirements for outdated modes of communication or in-person interaction (e.g., "mail," "issue").
3. Comply with LSC's Rule Drafting Manual by eliminating the period in the cross-references to chapters of the Revised Code.
4. Replace "approves" with "approved" in paragraph (A)(4) of this rule.
5. Refer to the potential for the director to have approved an extension to the maximum enrollment periods in paragraphs (A)(5), (B)(1), and (D)(1)(d) of this rule.
6. Replace ODA's address with "the address listed on the form."

- 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.**

Please see the incorporation by reference information for rule 173-51-01 of the Administrative Code to find the forms referenced by this rule that are defined by that rule.

- 10. 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 goals listed in the refiling on 04/28/2022.

04/28/2022 ODA refiled this rule to achieve the following:

- 1. Insert "if federal financial participation pays for all of the individual's services" to paragraph (A)(1) of this rule after the proposed amendment to add the words "or during a federal public health emergency."*
- 2. Replace paragraphs (B) and (D) [including any sub-paragraphs to those paragraphs] with proposed new paragraph (C) because the former paragraphs are superseded by section 173.545 of the Revised Code and this rule does not need to repeat that section.*

3. Reword paragraph (C) [proposed to be (B)] [including sub-paragraphs] to reduce the unnecessary use of regulatory restrictions from 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

Adopting ODA's proposed amendments to this rule will not affect the biennial budget that the Ohio General Assembly established for ODA in H.B. 110 (134th G.A.).

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

Adopting ODA's proposed amendments to this rule will not create any cost of compliance to any directly-affected person or organization.

- 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? No**

- 17. Does this rule have an adverse impact on business? No**

- 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? No
- 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? 11

(B) ODA or its designee SHALL NOT provide the individual an opportunity for a hearing....

(C)(1) [proposed to be (B)(1)] After ODA or its designee disenrolls an individual from the state-funded component of the assisted living program, ODA or its designee SHALL NOT subsequently re-enroll the individual back into the state-funded component of the assisted living program.

(C)(2) [proposed to be (B)(2)] After ODA (or its designee) disenrolls an individual from the state-funded component of the assisted living program, ODA or its designee SHALL NOT subsequently enroll the individual into the medicaid-funded component of the assisted living program until ODM's administrative agency....

(C)(3) [proposed to be (B)(3)] After ODA or its designee disenrolls an individual from the state-funded component of the assisted living program, ODA or its designee SHALL NOT subsequently enroll the individual into the state-funded component of the PASSPORT program.

(D)(1) ODA or its designee SHALL provide form ODA1117 to an individual....

(D)(1)(b) To REQUIRE the individual to pay a specified PETI each month

(D)(2) On form ODA1117, ODA (or its designee) SHALL provide notice of an individual's opportunity to appeal....

(D)(3) If an individual wishes to appeal ODA's or it's designee's proposed adverse action, the individual SHALL request a hearing.

(D)(3) To request a hearing, the individual SHALL sign form ODA1117 and mail the signed form to ODA....

(D)(4) In order for ODA to accept the request for a hearing, ODA MUST receive the original signed form ODA1117 in fewer than thirty days after the mailing date listed on the notice.

(D)(4) If ODA does not receive the original signed form in fewer than thirty days after the mailing date listed on the notice, ODA SHALL issue a final order of adjudication adopting the allegations contained in the original notice.