

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

Agency Name

Division

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173-6-06

Rule Number

AMENDMENT

TYPE of rule filing

Rule Title/Tag Line

Records that identify cardholders.**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, 173.06**

5. Statute(s) the rule, as filed, amplifies or implements: **173.06, 173.061**

6. State the reason(s) for proposing (i.e., why are you filing,) this rule:

ODA is seeking comments for proposed amendments to the rules of Chapter 173-6 of the Administrative Code. In doing so, ODA has 2 basic goals:

1. To comply with section 119.032 of the Revised Code, which requires each state agency to review each rule on or before the rule's designated review date. As part of this review, ODA intends to improve the rules with "clean-up" changes that do not change the program's policy. Specifically, ODA intends to:

a. Only refer to the business who participates in the program by offering a discount to cardholders as a "vendor," not a "provider." This includes replacing the

definition of "provider" with a definition for "vendor."

b. Only refer to the recipient of the program as "individual" or "cardholder," not "consumer."

c. Replace references to an individual with a permanent and total disability to references to an individual who is a person with a disability. This includes replacing the definition for "disability" with a definition for "person with a disability." This ensures that there is no variation between the terminology used by section 173.06 of the Revised Code and Chapter 173-6 of the Administrative Code. The Revised Code says such a person "has some impairment of body or mind and has been certified as permanently and totally disabled by an agency of this state or the United States having the function of so classifying persons."

d. Consistently refer to the Golden Buckeye Program in the rules and only mention the Golden Buckeye Card when specifically referring to a card issued as part of the Golden Buckeye Program.

e. Replace references to "ODA or to the administrator designated by ODA" with "ODA (or ODA's administrator)."

f. Replace the word "may" with "shall" when prohibiting an action because "shall not" clearly expresses that the prohibition is not subject to the cardholder's desires (i.e., a permissive prohibition).

g. Replace occurrences of "web site" with "website."

h. When referring to enrolling on a website in the enrollment-process rules, start with this statement: "If ODA (or ODA's administrator) begins to accept online applications and the individual qualifies to apply online according to the terms listed on ODA's (or the administrator's) website,..."

i. List the prior effective dates at the end of each in the same manner as that of other ODA rules: with the full year (e.g., "1980" not "80"); separated rule by commas, not semicolons; etc.

j. Only state in the "Rule amplifies" section at the end of each rule that the rule amplifies section 173.06 of the Revised Code, except at the end of rule 173-6-06 of the Administrative Code, because that rule also amplifies section 173.061 of the Revised Code.

2. To propose language that complies with the Legislative Service Commission's "Rule Drafting Manual" as found on http://www.lsc.state.oh.us/rules/rdm06_06.pdf and that incorporates the recommendations of "Advanced Legal Drafting" by Bryan A. Garner (Dallas: LawProse, Inc. (c) 2007). As part of this review, ODA intends to improve the rules with "clean up" changes that do not change the program's policy. Specifically, ODA intends to make changes such as:

- a. Replacing passive-voice language with active-voice language.
- b. Deleting unnecessary words (i.e., verbosity).
- c. Adding sub-headings to the two enrollment-process rules.
- d. Replacing occurrences of the word "once" with the more-definite word "after."
- e. Replacing occurrences of the words "within one week of receiving it from the individual" with the more-definite words "in less than one week after it receives the individual's application."
- f. Reducing occurrences of double spacing throughout the rule to single spacing.

ODA conducted a public-comment period on its website for the proposed rules for the 2 above reasons plus the following 2 reasons that ODA stated in the draft copy of the public hearing notice that it also published on its website: (1) to improve the program for vendors and (2) to improve the program for cardholders. The comment period began on November 24, 2010 and ended on December 22, 2010 (although ODA extended the comment period by leaving the rules on ODA's website until January 6, 2011). Zero people commented on the proposed amended rules during the comment period, meaning no person suggested how to improve the program for vendors or cardholders.

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:

This rule details what information the Golden Buckeye Card program may maintain to identify cardholders. In addition to the goals stated in item #6 of this RSFA, ODA is proposing to replace the rule's title "Records that identify cardholders" with "records," which better defines the topic of the rule because the rule regulates vendors' records as well as cardholder's records.

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 January 27, 2011, ODA revised this rule to:

1. Remove "173.62" from the "Statutory Authority" citation at the end of the rule.
2. Replace "173.62" with "173.061" in the "Rule Amplifies" citation at the end of the rule.
3. Revise this RSFA.

12. 119.032 Rule Review Date: **1/6/2011**

(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 estimates that the adoption of this proposed amended rule will have no impact upon the 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:

GRF-490-321 Operating expenses.

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 is no cost of compliance associated with the adoption of this proposed amended rule, especially because ODA is not proposing any new policy through the proposed amendments.

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**