

PUBLIC NOTICE

Notice is hereby given that the Ohio Department of Aging will conduct a hearing in accordance with Chapter 119. of the Revised Code to obtain comments concerning the Department's proposed adoption of new rules governing the certification of community-based long-term care service providers paid for with funds administered by the Department. These rules are being proposed in accordance with sections 173.02, 173.39 and 173.391 of the Revised Code.

Section 173.39 of the Revised Code prohibits the Department of Aging from paying any person or government entity for providing community-based long-term care services under a program the Department administers unless the person or government entity is certified to provide services under section 173.391 of the Revised Code and provides the services. An exception to this prohibition exists only when the person or government entity providing the services: 1) has a contract with the Department or its designee; 2) the contract includes detailed conditions of participation for the providers and standards that the provider is required to satisfy; 3) the provider complies with its contract; and 4) the contract is not for Medicaid-funded services other than for services funded under the PACE program provided for in section 173.50 of the Revised Code. Sections 173.02 and 173.391 of the Revised Code authorize the Department of Aging to adopt rules establishing certification requirements for providers of community-based long-term care services.

The rules being proposed for adoption by the Department include the following:

- 173-39-01, which provides an introduction to, and defines various terms used within, Chapter 173-39 of the Administrative Code;
- 173-39-02, which lists the conditions that must be met in order for a provider to be certified as a community-based long-term care provider;
- 173-39-02.1, which establishes the service specifications that must be met in order for the provider to be certified to provide Adult Day Services;
- 173-39-02.2, which establishes the service specifications that must be met in order for the provider to be certified to provide Alternative Meal Services;
- 173-39-02.3, which establishes the service specifications that must be met in order for the provider to be certified to provide Pest Control Services;
- 173-39-02.4, which establishes the service specifications that must be met in order for the provider to be certified to provide Home Care Attendant Services;
- 173-39-02.5, which establishes the service specifications that must be met in order for the provider to be certified to provide Chore Services;

- 173-39-02.6, which establishes the service specifications that must be met in order for the provider to be certified to provide Emergency Response Systems Services;
- 173-39-02.7, which establishes the service specifications that must be met in order for the provider to be certified to provide Home Medical Equipment and Supplies Services;
- 173-39-02.8, which establishes the service specifications that must be met in order for the provider to be certified to provide Homemaker Services;
- 173-39-02.9, which establishes the service specifications that must be met in order for the provider to be certified to provide Minor Home Modification, Maintenance and Repair Services;
- 173-39-02.10, which establishes the service specifications that must be met in order for the provider to be certified to provide Nutrition Consultation Services;
- 173-39-02.11, which establishes the service specifications that must be met in order for the provider to be certified to provide Personal Care Services;
- 173-39-02.12, which establishes the service specifications that must be met in order for the provider to be certified to provide Social Work Counseling Services;
- 173-39-02.13, which establishes the service specifications that must be met in order for the provider to be certified to provide Transportation Services;
- 173-39-02.14, which establishes the service specifications that must be met in order for the provider to be certified to provide Home Delivered Meal Services;
- 173-39-02.15, which establishes the service specifications that must be met in order for the provider to be certified to provide Independent Living Assistance Services;
- 173-39-02.16, which establishes the service specifications that must be met in order for the provider to be certified to provide Assisted Living Services;
- 173-39-02.17, which establishes the service specifications that must be met in order for the provider to be certified to provide Community Transition Services;
- 173-39-03, which lists the application materials which must be submitted by providers seeking certification as community-based long-term care providers, describes the process through which the various types of providers request and submit their applications, describes the responsibilities of the Department of Aging and its designees in the certification process and establishes certain timelines for the completion of those responsibilities, lists requirements that a certified provider must meet in order to maintain its certification, describes how a certified provider can obtain certification to provide additional services in the geographic area of the State in which the provider is already certified to provide certain services and to provide services in different geographic

regions, lists conditions under which providers may have their certification immediately revoked;

- 173-39-04, which requires certified community-based long-term care providers to undergo periodic structural compliance reviews in order to maintain their certification, establishes minimum requirements that must be met in order for these reviews to be valid, requires providers to return any overpayment identified during the unit of service verification process conducted during the review, establishes requirements and deadlines that must be met by the entity conducting the review, the Department of Aging and the provider after a structural compliance report has been prepared, authorizes the Department and/or its designee to conduct follow-up reviews of a provider to evaluate the provider's compliance with any certification requirements outlined in Chapter 173-39 of the Administrative Code and any plans of correction required by the Department as a result of a structural compliance review, authorizes the Department or its designee to conduct unannounced on-site reviews of certified providers independent of the periodic structural compliance review described above and/or to make a determination as to whether the health and/or safety of a consumer is at imminent risk, requires providers to provide certain records to the Department and others for the purpose of conducting audits and reviews to ensure compliance with the requirements found in Chapter 173-39 of the Administrative Code and prevent waste, abuse and inappropriate payments, and authorizes a provider to challenge and request a review of the findings of any structural compliance review conducted by the Department or its designee;
- 173-39-05, which establishes sanctions that may be taken against certified providers that fail to comply with the community-based long-term care certification requirements outlined in Chapter 173-39 of the Administrative Code; requires the Department to give notice and an opportunity for a hearing prior to imposing certain sanctions against a provider; prohibits any provider whose certification has been terminated from reapplying for certification for a two-year period;
- 173-39-06, which requires the Department of Aging to provide notice to any provider whose request for certification has been denied, or against whom a sanction has been proposed; mandates that certain information be included within the notice, indicates that a copy of the notice will be provided to the provider's attorney or other representative of record under certain circumstances, and describes the process for providing the notice to the provider;
- 173-39-07, which describes the process under which a provider must submit its request to appeal the proposed denial of its certification or the imposition of sanctions and imposes a deadline, describes how the Department will determine the date upon which a provider's request to appeal a proposed action was made, requires the Department to issue an order against a provider whenever the provider fails to challenge the proposed action within thirty calendar days of the mailing of the notice proposing to deny certification or impose sanctions; and,

- 173-39-08, which describes the process for the conduct of all appeal hearings resulting from a proposal to deny certification to, or sanction, a provider, as well as the issuance of the Department's adjudication order approving, modifying or disapproving any recommendation resulting from the conduct of the hearing in question.

The hearing to which this notice applies will be conducted on Tuesday, February 21, 2006, in Conference Room A of the Department's offices at 50 W. Broad Street, 9th floor, Columbus, Ohio, 43215. The hearing will begin at 10:30 a.m. and will continue until all parties in attendance at that time have had an opportunity to provide comments. Written comments to the proposed rules may be mailed or faxed to the Department (FAX: 614-466-5741) on or before the date of the hearing. All requests for copies of the proposed rules, as well as any written comments, should be directed to the attention of Mike Laubert (614-466-1055, Mlaubert@age.state.oh.us) at the Ohio Department of Aging.