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Hearing Date: 04/30/24

Today's Date: 05/08/24

Agency:

Rule Number(s): 173-3-01, 173-3-06.4, 173-3-06.5, 173-39-02.8, 173-39-02.11, 173-39-02.20

If no comments at the hearing, please check the box. ☐

List organizations or individuals giving or submitting testimony before, during or after the public hearing and indicate the rule number(s) in question.

**In-Person Comments:** None

Individual(s)/Organization(s)	Rule	Comments

**Written Comments:**

Individual(s)/Organization(s)	Rule	Comments
Freedom Caregivers	See attachment	
Van Wert County CoA	See attachment	

**Consolidated Summary of Comments Received**

Please review all comments received and complete a consolidated summary paragraph of the comments and indicate the rule number(s).

**See attachment**

**Incorporated Comments into Rule(s)**

Indicate how comments received during the hearing process were incorporated into the rule(s). If no comments were incorporated, explain why not.

Comment Received	Rule	How Incorporated
Freedom Caregivers	See attachment	
Van Wert County CoA	See attachment	



# PUBLIC HEARING TESTIMONY

## AIDE QUALIFICATIONS AND TRAINING

On April 30, 2024, ODA held a public hearing on proposed amendments to rules 173-3-01, 173-3-06.4, 173-3-06.5, 173-39-02.8, 173-39-02.11, and 173-39-02.20 of the Administrative Code. The table below lists the testimony received on these rules and ODA's responses to that testimony.

	Rule	Testimony	ODA's Response
1	<a href="#">173-3-01</a>	<p>The inclusion of the "coordination" definition is so broad that it could potentially negatively impact providers in countless ways. Additionally, the "older relative caregiver" definition seems to be tied to changes to self-direction, and the lack of detail here produces the same cause for concern. These changes could allow the shift of care away from agency providers in the self-direction program in an inappropriate way.</p> <p><b>Freedom Caregivers</b></p>	<p>An older relative caregiver does not apply to participant-directed providers. The term refers its definition in <a href="#">42 USC 3030s</a>. It applies to the National Family Caregiver Support Program, which is a program that provides support services to older relative caregivers. <a href="#">42 USC 3030s-1</a> lists the support services to include information to caregivers about available services, assistance to caregivers in gaining access to the services, individual counseling, organization of support groups, and caregiver training, and respite care to enable caregivers to be temporarily relieved.</p>

	Rule	Testimony	ODA's Response
2	<a href="#">173-3-06.4</a>	<p>With the shortage of homemaker workers available, the board should consider revising the requirements for a supervisor of a homemaker. Currently requirements of the rule read:</p> <p>(5) Aide supervisors, aide trainers, and aide testers: (a) Qualifications: The provider may allow a person to serve as an aide supervisor, an aide trainer, or an aide tester only if the person meets one or more of the following qualifications: (i) The person is an RN. (ii) The person is an LPN who works under the supervision of an RN. (iii) The person successfully completed a baccalaureate or associate degree in a health and human services field. (iv) The person completed at least two years of work as an aide, as defined by this rule.</p> <p>The rule should consider also adding that a supervisor can also include any individual that holds a valid, State of Ohio License in Social Work. I believe that if a person holds a License in Social Work, this would be a sufficient qualification to supervise someone who is just providing basic routine household chores and duties.</p> <p><b>Van Wert County Council on Aging</b></p>	<p>On May 8, 2024, ODA refiled this rule to allow LISWs and LSWs to qualify to be supervisors of homemaker aides.</p>
3	<a href="#">173-3-06.4</a>	<p>While these changes are good for agencies in general, there is clearly a reduction in training that should cause agencies concern within the context of the self-direction program. By not having minimum training hours and instead only having training in the areas that the aide will work, many people will be getting paid as IPs via self-direction that would give consumers the false impression that they could serve other needs. For example, a person that has worked in restaurants their whole life could become an "aide" with only having training in laundry service. Agencies will continue to "cross train" their employees because they must while serving other programs. This person would be far less qualified than an aide with many hours of training via an agency but would be seen as the same in the eyes of consumers.</p> <p><b>Freedom Caregivers</b></p>	<p>On May 8, 2024, ODA refiled this rule to add a general standard that a homemaker aide may perform only those activities on which the aide has successfully completed training. We did the same for rule <a href="#">173-39-02.8</a> of the Administrative Code.</p>
4	<a href="#">173-3-06.5</a>	<p>These changes are good for agencies because they help align PASSPORT training with other requirements, and they allow telehealth visits to qualify as training visits.</p> <p><b>Freedom Caregivers</b></p>	<p>Thank you.</p>

	Rule	Testimony	ODA's Response
5	<a href="#">173-39-02.8</a>	<p>With the shortage of homemaker workers available, the board should consider revising the requirements for a supervisor of a homemaker. Currently requirements of the rule read:</p> <p>(5) Aide supervisors, aide trainers, and aide testers: (a) Qualifications: The provider may allow a person to serve as an aide supervisor, an aide trainer, or an aide tester only if the person meets one or more of the following qualifications: (i) The person is an RN. (ii) The person is an LPN who works under the supervision of an RN. (iii) The person successfully completed a baccalaureate or associate degree in a health and human services field. (iv) The person completed at least two years of work as an aide, as defined by this rule.</p> <p>The rule should consider also adding that a supervisor can also include any individual that holds a valid, State of Ohio License in Social Work. I believe that if a person holds a License in Social Work, this would be a sufficient qualification to supervise someone who is just providing basic routine household chores and duties.</p> <p><b>Van Wert County Council on Aging</b></p>	<p>On May 8, 2024, ODA refiled this rule to allow LISWs and LSWs to qualify to be supervisors of homemaker aides.</p>
6	<a href="#">173-39-02.8</a>	<p>The collective changes contained in this rule absolutely reduce the training and lower the qualification threshold of aides. Not only does the rule broaden the service capability of staff by removing the definition of "homemaker," the rule also reduces training requirements. While agencies will continue to provide training to meet all programs and to create a high standard, this is far too low for non-agency providers and would put the public at risk.</p> <p><b>Freedom Caregivers</b></p>	<p>Paragraph (B)(2) of this rule limits this service to agency providers. The PASSPORT Program does not pay non-agency providers to provide this service.</p>
7	<a href="#">173-39-02.11</a>	<p>These changes are good for agencies generally too because they help align training with other requirements and allow telehealth visits to qualify as training visits, as well as reduce in-service training requirements to align with other programs.</p> <p><b>Freedom Caregivers</b></p>	<p>Thank you.</p>

	Rule	Testimony	ODA's Response
8	<a href="#">173-39-02.20</a>	<p>While the inclusion of the new language for PCA oversight would be helpful for agencies, restricting the use of technology doesn't make much sense, especially in the context of EVV. There should be some concern that this removal could lead to more and more people being exempted from EVV requirements, which hurts agency providers by creating an unfair market between higher expectation from agency providers and lower requirements for self-directed providers.</p> <p><b>Freedom Caregivers</b></p>	<p>There is no proposal to eliminate the use of electronic systems. ODA proposes to delete the paragraph in rule 173-39-02.20 of the Administrative Code on using an electronic system to collect or retain records because it duplicates the flexibility created in rule 173-39-02 of the Administrative Code, which says, "The provider may use an electronic system to collect or retain records." Rule 173-39-02 of the Administrative Code applies to ECL and every other service under Chapter 173-39 of the Administrative Code. In general, every requirement for a certified provider that applies to every service appears in rule 173-39-02 of the Administrative Code while any requirement that is unique to ECL appears in only rule 173-39-02.20 of the Administrative Code.</p>

	Rule	Testimony	ODA's Response
9	General	<p>While some of the rules in this package are good for agency providers, other changes are lowering the standard for non-agency providers. These changes could allow the shift of care away from agency providers in the self-direction program in an inappropriate way and without the protection that patients expect. More concerning, it will allow unqualified people with many hours of training less than an agency to be seen as equal in the eyes of consumers, which hurts agency providers by creating an unfair market between higher expectations from agency providers and lower requirements for self-directed providers.</p> <p>While agencies will continue to provide training to meet all programs and to create a high standard, this is far too low for non-agency providers and would put the public at risk. This “trend” to create a lower standard of care for non-agency providers while also pushing people toward self-directed programs is an undeniable concern.</p> <p>Overall, these changes will hurt the public and should not be allowed to happen within the context of changes from the Ohio Department of Medicaid (ODM) to increase the utilization of self-direction. Not only will patients be put at risk, but the state will also be creating a separate standard for agency and non-agency providers. This cannot be allowed to happen. Agency providers are already struggling to serve the Medicaid program, and if the state allows people to be “recruited” away from agencies by providers that have less qualifications and lower requirement and costs, then an access issue with be created.</p> <p>ODA and ODM should think carefully about how these changes will impact their broader programs. I hope that ODA will address our concerns in these rules and protect the public. Thank you again for allowing me to testify today.</p> <p><b>Freedom Caregivers</b></p>	