PUBLIC-COMMENT PERIOD

STRUCTURED FAMILY CAREGIVING

August 17, 2026

AGE reviewed rule 173-39-02.25 of the Administrative Code and now proposes to amend it.

Please feel free to review the proposed amendments to this rule and the business impact analysis and offer recommendations for improving the rule. Submit recommendations to rules@age.ohio.gov no later than **August 30, 2026**—extended to **September 7, 2026**—at 11:59PM.

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Common Sense Initiative

Mike DeWine, *Governor* Jim Tressel, *Lt. Governor*

Business Impact Analysis

Agency, Board, or Commission Name: OHIO DEPT. OF AGING

Rule Contact Name and Contact Information: Tom Simmons rules@age.ohio.gov

Regulation/Package Title (a general description of the rules' substantive content):

PROVIDER CERTIFICATION: STRUCTURED FAMILY CAREGIVING

Chapter 173-39 of the Administrative Code establishes the requirements to become, and to remain, a certified provider.

Rule Number(s): 173-39-02.25

Date of Submission for CSI Review: August 17, 2026

Public Comment Period End Date: August 30, 2026--extended until September 7, 2026--at 11:59PM .

Rule Type/Number of Rules:

- ☐ New/___ rules
- ☒ Amended: 1 rule (FYR? ☒)
- ☐ No Change/____ rules (FYR? ☐)
- ☐ Rescinded/____ rules (FYR? ☐)

The Common-Sense Initiative is established in R.C. 107.61 to eliminate excessive and duplicative rules and regulations that stand in the way of job creation. Under the Common-Sense Initiative, agencies must balance the critical objectives of regulations that have an adverse impact on business with the costs of compliance by the regulated parties. Agencies should promote transparency, responsiveness, predictability, and flexibility while developing regulations that are fair and easy to follow. Agencies should prioritize compliance over punishment, and to that end, should utilize plain language in the development of regulations.

Reason for Submission

1. **R.C. 106.03 and 106.031 require agencies, when reviewing a rule, to determine whether the rule has an adverse impact on businesses as defined by R.C. 107.52. If the agency determines that it does, it must complete a business impact analysis and submit the rule for CSI review.**

   Which adverse impact(s) to businesses has the agency determined the rule(s) create?

The rule(s):

a. ☐ **Requires a license, permit, or any other prior authorization to engage in or operate a line of business.**
b. ☐ **Imposes a criminal penalty, a civil penalty, or another sanction, or creates a cause of action for failure to comply with its terms.**
c. ☒ **Requires specific expenditures or the report of information as a condition of compliance.**
d. ☐ **Is likely to directly reduce the revenue or increase the expenses of the lines of business to which it will apply or applies.**

Regulatory Intent

2. **Please briefly describe the draft regulation in plain language.**
Please include the key provisions of the regulation as well as any proposed amendments.

This rule establishes requirements to become, and to remain, a certified provider of structured family caregiving.

AGE proposes to amend this rule to list the mandatory reporting items that a provider retains to verify that an episode of service was provided.

3. **Please list the Ohio statute(s) that authorize the agency, board or commission to adopt the rule(s) and the statute(s) that amplify that authority.**

RC §§ 121.07, 173.01, 173.02, 173.39, 173.391, 173.52, 173.522.

4. **Does the regulation implement a federal requirement? Is the proposed regulation being adopted or amended to enable the state to obtain or maintain approval to administer and enforce a federal law or to participate in a federal program?**
If yes, please briefly explain the source and substance of the federal requirement.

In order for the Centers for Medicare and Medicaid Services (CMS) to approve Ohio's application for a Medicaid waiver authorizing the state to launch and maintain the Medicaid-funded component of the PASSPORT Program, 42 CFR 441.352 requires AGE to establish provider-certification requirements to safeguard the health and welfare of individuals who receive one or more services through the program.

5. **If the regulation implements a federal requirement, but includes provisions not specifically required by the federal government, please explain the rationale for exceeding the federal requirement.**

This rule exists to comply with the state laws mentioned in AGE's response to #2. Those state laws require AGE to adopt rules to establish requirements for provider certification and the PASSPORT Program.

6. **What is the public purpose for this regulation (i.e., why does the Agency feel that there needs to be any regulation in this area at all)?**

This rule exists to comply with the state laws mentioned in AGE's response to #2. Those state laws require AGE to adopt rules to establish requirements for provider certification and the PASSPORT Program.

7. How will the Agency measure the success of this regulation in terms of outputs and/or outcomes?

AGE and its regional designees[1] monitor every provider to ensure compliance for the continued health and safety of each individual receiving a service from a certified provider. [173-39-04] AGE will judge the proposed amendments to this rule to be a success when AGE and its designees find few violations against it during structural compliance reviews or investigations of alleged incidents.

8. Are any of the proposed rules contained in this rule package being submitted pursuant to R.C. 101.352, 101.353, 106.032, 121.93, or 121.931?
If yes, please specify the rule number(s), the specific R.C. section requiring this submission, and a detailed explanation.

No.

Development of the Regulation

9. Please list the stakeholders included by the Agency in the development or initial review of the draft regulation.
If applicable, please include the date and medium by which the stakeholders were initially contacted.

AGE's guide *Participating in Rule Development* and the main rules webpage on AGE's website encourage stakeholders and the general public to contact AGE's rules and policy administrator at rules@age.ohio.gov to give input on improving AGE's rules. This email address has not received any email from any person or entity regarding this rule.

On July 24, 2026, AGE emailed every certified provider of structured family caregiving for which AGE had a valid email address[2] with the following poll:

> The Ohio Department of Aging is polling certified providers of structured family caregiving.
>
> Providers and PASSPORT administrative agencies have shared their concerns over the information that a provider must retain to verify that a unit of service (e.g., full day, ½ day) was provided. To clarify the matter, the Ohio Department of Aging proposes to list the specific information that a provider must retain for service verification in rule 173-39-02.25 of the Administrative Code.
>
> Please email back to let us know your answers to the following questions by August 4, 2026:
>
> - Do you or your organization agree with adding specific service verification information to 173-39-02.25 of the Administrative Code to clarify requirements?
> - Do you have any comments to share on this matter?
>
> Thank you for your time.

10. What input was provided by the stakeholders, and how did that input affect the draft regulation being proposed by the Agency?

In response to the July 24 email, AGE received input from 7 providers. All 7 providers who responded agreed with AGE's proposal to add specific service verification standards to the rule.

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[1] These regional designees are the area agencies on aging and Catholic Social Services of the Miami Valley. In the context of provider certification and the PASSPORT Program, they are referred to as PASSPORT administrative agencies.
[2] 38 out of 40 certified providers.

The table below lists each provider's comment and AGE's reply to it.

	Provider	Comment, Recommendation, or Question	AGE's Reply
1	**Alchemy Care of Ohio**	Thank you for the opportunity to provide feedback. Yes, I agree with adding specific service verification requirements to Ohio Administrative Code Rule 173-39-02.25. Having clear and consistent documentation requirements will help providers better understand what information must be maintained and ensure compliance. At this time, I do not have any additional comments. Thank you for seeking feedback from providers.	Thank you!
2	**Nationwide Healthcare Services, LLC**	Thank you for reaching out regarding the proposed changes. We agree with adding specific service verification information to 173-39-02.25 of the Administrative Code to clarify requirements.	Thank you!
3	**Pearl's Hope**	[T]hank you for reaching out. We are always eager/willing to be a thought partner on requirements! We support clarifying service verification requirements through 173-39-02.25. Clearly articulated documentation expectations promote consistent provider compliance, improve audit readiness, and reduce the risk of inconsistent interpretation during post-payment review. Explicit requirements also provide greater certainty for providers regarding the records necessary to substantiate services delivered. We encourage the Department to ensure that required documentation is limited to information necessary to verify service delivery and program integrity, while avoiding unnecessary administrative burden or technical documentation requirements that could result in payment denials where services were appropriately provided.	AGE proposes to require only what is needed to verify that a service was provided as authorized by the individual's case manager.

	Provider	Comment, Recommendation, or Question	AGE's Reply
4	**Mercy Angels Transportation, LLC**	Thank you for the opportunity to provide feedback regarding the proposed amendment to Rule 173-39-02.25. Our organization agrees with adding specific service verification requirements to the rule if doing so provides greater clarity and promotes consistent expectations for providers, PASSPORT Administrative Agencies, and surveyors. We believe clearly defined documentation standards can help reduce uncertainty, improve compliance, and ensure that providers understand exactly what information must be maintained to verify that a full-day or half-day unit of service was provided. As ODA develops the rule language, we respectfully offer the following suggestions: • Clearly identify the minimum documentation elements required for service verification so that all providers are held to the same standard. • Keep the documentation requirements practical and focused on information necessary to verify service delivery without creating unnecessary administrative burden. • Ensure the requirements are consistent with existing PASSPORT and Medicaid documentation standards to avoid conflicting expectations. • Consider providing examples or guidance documents that illustrate acceptable service verification records. We appreciate ODA's efforts to clarify these requirements and look forward to reviewing the proposed rule language. Thank you for considering our comments.	AGE agrees listing what is required will help providers to "understand exactly what information mut be maintained to verify that a full-day or half-day unit of service was provided." As requested, AGE proposes to require only what is needed to verify that a service was provided as authorized by the individual's case manager.

	Provider	Comment, Recommendation, or Question	AGE's Reply
5	**FreedomCare**	We would be happy to share our feedback on the verification of Structured Family Caregiving (SFC). FreedomCare operates in 15 states and has provided Structured Family Caregiving and Adult Foster/Family Care services for more than five years across five states. Because regulations vary by state, our experience in each market has been different. As you consider developing rules, we would be glad to share what has worked well, along with the challenges we have encountered. We would also be happy to demonstrate how our caregivers log their visits. Our approach mirrors an Electronic Visit Verification (EVV) solution without requiring formal clock-in and clock-out times, since caregivers live with the member and provide services throughout the day. Our initial feedback is included below. Please let me know if you would be interested in scheduling a call to discuss it further. • **Q: Do you or your organization agree with adding specific service verification information to 173-39-02.25 of the Administrative Code to clarify requirements?** • A: FreedomCare supports adding specific service verification requirements if they establish a clear, uniform statewide standard (i.e. across all PAAs). Standardized expectations would minimize interpretation differences across PAAs, clarify the state's expectations for providers, and support consistent compliance. We encourage the Ohio Department of Aging to ensure that any specific service verification requirements are limited to the information necessary to verify that authorized services were provided and can be implemented without adversely affecting existing care processes. Aligning the requirements with current provider documentation practices will help facilitate a smooth transition while maintaining continuity of care for participants. FreedomCare currently requires caregivers to complete a daily service note documenting service delivery, any changes in the individual's condition, and other relevant observations (e.g., nutrition, medication reminders, or other notable care activities), which provides meaningful verification while supporting high-quality care. • **[Q:] Do you have any comments to share on this matter?** • A: FreedomCare supports maintaining the flexibility afforded by the current half day and full day structure for Structured Family Caregiving (SFC). An important benefit of the half day option is that it allows an individual to receive support from a family caregiver who resides in the home while also receiving Personal Care Services (PCS) from a different eligible caregiver who does not reside in the home. This flexibility helps families build caregiving arrangements that best meet the individual's needs and supports continuity of care. We encourage ODA to preserve this flexibility as it considers updates to service verification requirements.	As requested, AGE proposes to require only what is needed to verify that a service was provided as authorized by the individual's case manager. AGE does not propose to require "formal clock-in and clock-out times." As requested, AGE proposes to retain the current half-day and full-day units of service.

	Provider	Comment, Recommendation, or Question	AGE's Reply
6	**Givers**	Thank you for reaching out and for the opportunity to comment. Givers agrees that adding specific service verification information to rule 173-39-02.25 would benefit providers and PASSPORT administrative agencies by establishing a consistent standard. For reference, our current approach to service verification rests on three layers, which we'd suggest as a useful baseline for any rule clarification: 1. **Authorization enforcement:** our system electronically limits and tracks service delivery to authorized days only, so verification starts from a hard constraint tied to the approved authorization. 2. **Care notes demonstrating service occurrence:** for each authorized day, care notes document the ADLs/IADLs performed, tied back to the needs identified in the participant's PCSP or assessment. This ties the *content* of the service to what was authorized, not just the fact that a day was logged. 3. **Reconciliation against billed claims:** authorized days, documented care notes, and billed claims are cross-checked against one another, so verification isn't just a single artifact but an alignment across the authorization, the documentation, and the claim. We think a rule that anchors service verification to this kind of three-way alignment (authorization → documented ADL/IADL activity → billing) would give providers a clear, testable standard, rather than leaving "verification" open to interpretation at the PAA level. Happy to discuss further if that would be helpful.	AGE agrees that describing the service provided by documenting each ADL or IADL activity provided during a day will establish a uniform statewide standard. AGE's upcoming claims system will contain enhanced verification measures.
7	**Champion Home Health Care**	Champion Home Health Care supports adding specific service verification requirements to the rule if doing so will provide greater clarity and consistency for providers. One area where we have experienced confusion involves Structured Family Caregiving service plans and billing requirements. For example, we have a member whose service plan authorizes 7 units per week for Structured Family Caregiving. While we understand that Structured Family Caregiving is billed by the day rather than by the hour, it has not always been clear how the authorized units correspond to daily services and how those units should be interpreted for documentation and payment purposes. Additionally, we encountered a billing issue in which a properly submitted claim for this service was denied with instructions to bill Medicare. However, Champion Home Health Care is not Medicare-certified and is currently contracted only for the MyCare Ohio Waiver Program and PASSPORT through COAAA. This created uncertainty regarding the appropriate payer and billing process for the authorized service. We believe additional guidance that clearly defines service units, documentation requirements, and billing expectations would be beneficial for providers and could help prevent claim denials and inconsistent interpretations. Thank you for considering our feedback.	AGE proposes to require providers to list the activities provided during each day of service. This will (1) determine if the activities provided match the activities authorized in the individual's person-centered services plan and (2) justify a half-day or full-day unit of service. The Ohio Department of Medicaid (ODM) operates the MyCare Ohio program, which is a program for Ohioans who are covered by both Medicare and Medicaid. We recommend contacting ODM's Integrated Helpdesk at 1 (800) 686-1516 to see if it is possible for a provider to provide services in that program if the provider doesn't submit claims to Medicare.

11. What scientific data was used to develop the rule or the measurable outcomes of the rule? How does this data support the regulation being proposed?

AGE is not proposing to amend this rule due to scientific data.

12. What alternative regulations (or specific provisions within the regulation) did the Agency consider, and why did it determine that these alternatives were not appropriate? If none, why didn't the Agency consider regulatory alternatives? *Alternative regulations may include performance-based regulations, which define the required outcome, but do not dictate the process the regulated stakeholders must use to comply.*

RC§173.391 requires AGE to adopt rules to establish requirements for certified providers. Additionally, federal rules require AGE to establish adequate requirements for providers to assure the health and safety of individuals enrolled in AGE-administered programs.

13. What measures did the Agency take to ensure that this regulation does not duplicate an existing Ohio regulation?

RC§173.391 authorizes only AGE to develop standards for certified providers of services to individuals enrolled in AGE-administered programs.

14. Please describe the Agency's plan for implementation of the regulation, including any measures to ensure that the regulation is applied consistently and predictably for the regulated community.

Before the proposed amendments take effect, AGE will email subscribers of our rule-notification service to feature this rule.

Through regular monitoring activities, AGE and its designees will monitor certified providers for compliance. [173-39-04]

Adverse Impact to Business

15. Provide a summary of the estimated cost of compliance with the rule(s). Specifically, please do the following:

a. Identify the scope of the impacted business community, and

Every certified provider of structured family caregiving. As of July 24, 2026, there are 40 certified providers.

b. Quantify and identify the nature of all adverse impact (e.g., fees, fines, employer time for compliance, etc.).
The adverse impact can be quantified in terms of dollars, hours to comply, or other factors; and may be estimated for the entire regulated population or for a representative business. Please include the source for your information/estimated impact.

This rule refers to the requirements to become, and to remain, certified in rule 173-39-02 of the Administrative Code. The reference in this rule does not create an adverse impact, because rule 173-39-02 of the Administrative Code already applies to every certified provider. AGE includes the reference to rule 173-39-02 of the Administrative Code in this rule due to the tendency of the public to find rules by googling. If a person searches for "structured family caregiving," AGE wants the person to find this rule and know to also read rule 173-39-02 of the Administrative Code.

This rule refers to the requirements to provide structured family caregiving in rule 5160-44-33 of the Administrative Code.

This rule establishes that a person qualifies to serve as a caregiver only if the person either (1) successfully completes 8 hours of training that the individual receiving the service determined would meet the individual's needs by the deadline the individual establishes or (2) meets the qualifications to be a personal care aide under rule 173-39-02.11 of the Administrative Code.

Additionally, this rule establishes reporting items needed to comply with the service verification requirements in rule 173-39-02 of the Administrative Code. As covered in BIA question #2, this is the new item that AGE is proposing to add to this rule.

The amount the PASSPORT Program pays providers for a structured family caregiving is an all-inclusive rate. It's intended to cover the daily costs incurred in the service plus employee-related costs. The costs incurred as a result of this rule are likely calculated as part of a provider's operational budget—the cost of doing business and clerical jobs, such as retaining records and updating policies and procedures.

The PASSPORT Program pays each provider the maximum-allowable amount per unit of service allowed by the Ohio Dept. of Medicaid (ODM). In the appendix to rule 5160-1-06.1 of the Administrative Code, ODM establishes the units of service for the PASSPORT Program and the maximum-allowable payment for each unit.

16. Are there any proposed changes to the rules that will reduce a regulatory burden imposed on the business community? Please identify. *(Reductions in regulatory burden may include streamlining reporting processes, simplifying rules to improve readability, eliminating requirements, reducing compliance time or fees, or other related factors).*

According to provider's input in BIA question #10, establishing uniform standards in this rule on what informaiton a provider must retain to verify that a service was provided as autorized will prevent unnecessary denial of claims by AGE's regional designees who have differing standards on what information to retain.

17. Why did the Agency determine that the regulatory intent justifies the adverse impact to the regulated business community?

RC§173.391 requires AGE to develop rules establishing standards for certified providers and RC§173.01 requires AGE to represent the interests older Ohioans. Establishing standards for certified providers in this rule ensures the health and safety of the older Ohioans who receive one or more services through an AGE-administered program that requires certification, including the PASSPORT Program.

There is no requirement for a provider to obtain certification to provide this service in Ohio. Certification is not a gateway to doing business. Instead, a provider who wants to add the PASSPORT Program to its lines of business may choose to become certified so that the PASSPORT Program may pay the provider for providing its service to individuals enrolled in that program.

Regulatory Flexibility

18. Does the regulation provide any exemptions or alternative means of compliance for small businesses? Please explain.

Because the primary purpose of this rule is to ensure the health and safety of individuals enrolled in AGE-administered programs, the rules treat all providers the same, regardless of their size.

19. How will the agency apply Ohio Revised Code section 119.14 (waiver of fines and penalties for paperwork violations and first-time offenders) into implementation of the regulation?

AGE's primary concern is the health and safety of each individual receiving a service from a certified provider. Whenever possible, AGE or its designees treats administrative violations that do not involve health and safety as opportunities for improvement through warning notices and solicitation of corrective action.

20. What resources are available to assist small businesses with compliance of the regulation?

AGE and its designees are available to help providers of all sizes with their questions. Any person may contact AGE's rules and policy administrator with questions about this rule.