



## Ohio Administrative Code

### Rule 173-39-03 ODA provider certification: applying for certification.

Effective: July 2, 2023

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#### (A) Initial steps:

(1) To apply for certification, a provider shall complete an application in the provider management system, which includes electronic submission of all supporting records required as part of the application. If the provider does not complete the application within ninety days, the application expires.

(2) ODA shall review an application to determine if the application meets the requirements for the certification the provider is seeking.

(a) ODA shall initiate the process for a pre-certification review if ODA determines that a provider submitted a complete application.

(b) If ODA determines that the supporting records do not demonstrate that the provider submitted a complete application, then ODA shall email the provider to give the provider a deadline to submit supporting records that demonstrate that the provider meets the requirements for certification that is the earlier of thirty days after the email or the deadline in paragraph (A)(1) of this rule.

#### (B) Voluntary withdrawal of application for certification:

(1) A provider may withdraw its application at any time before enrollment with ODM unless ODA issued a notice of denial of certification.

(2) A provider that withdrew its application may later reapply for certification.

#### (C) Pre-certification review:

(1) For all providers except providers of community transition provided through the home choice



program under rule 5160-51-10 of the Administrative Code and participant-directed providers:

- (a) ODA's designee shall visit the provider's business site to determine if the provider meets the applicable requirements in rule 173-39-02 of the Administrative Code and any additional requirements in this chapter regulating a service the provider is seeking certification to provide. During a state of emergency declared by the governor, a federal public health emergency, or during another time if authorized by ODA, ODA's designee may conduct a desk review of the provider's business site in lieu of a visit.
  - (b) ODA's designee shall complete the review and notify ODA of its recommendation within sixty days after receiving a complete application to become any other type of provider, unless ODA approves an extended deadline.
  - (c) ODA's designee shall recommend approval of the provider's application if a provider other than an ADS or assisted living provider complies with all applicable requirements.
  - (d) Paragraph (D) of this rule applies if ODA's designee determines that an ADS or assisted living provider complies with all applicable requirements.
  - (e) ODA's designee shall recommend denial of the application if the provider does not comply with all applicable requirements.
- (2) For providers of community transition provided through the home choice program under rule 5160-51-10 of the Administrative Code:
- (a) ODA may direct its designee to conduct the pre-certification review to determine if the provider meets the applicable requirements in rules 173-39-02 and 173-39-02.17 of the Administrative Code.
  - (b) ODA or its designee shall determine whether the provider complies with all applicable requirements and either approve or deny the provider's application pursuant to this rule.
- (3) For participant-directed providers, ODA's designee shall conduct a pre-certification review within thirty days after receiving a complete application to determine whether the provider meets the



applicable requirements in rule 173-39-02 of the Administrative Code and any additional requirements in this chapter regulating a service the provider is seeking certification to provide, unless ODA approves an extended deadline.

(D) HCBS settings requirements: A provider may qualify for certification only if the provider provides its services in the individual's home or another setting meeting the HCBS settings requirements in 42 C.F.R. 441.301 and rule 5160-44-01 of the Administrative Code as determined by ODA on form ODM10172 (revised, June 2021), which is entitled, "Home and Community Based Services (HCBS) Settings Evaluation Tool."

(1) ODA may certify the provider if ODA determines the setting is presumed to have the qualities of a HCBS setting and the setting is not subject to the heightened scrutiny described in rule 173-39-03.1 of the Administrative Code.

(2) The setting is subject to the heightened scrutiny described in rule 173-39-03.1 of the Administrative Code if ODA determines the setting is presumed to have the qualities of an institution. ODA defers action on the application for certification until the conclusion of the heightened scrutiny. ODA shall notify the provider that action on the provider's application is deferred.

(E) Final determination: ODA bases its final determination of whether to certify a provider on the review of the application materials and the recommendation of ODA's designee.

(F) Approved application:

(1) Applications for all services except community transition provided through the home choice program under rule 5160-51-10 of the Administrative Code:

(a) When ODA approves an application, ODA notifies ODA's designee for the region in which the provider is being certified to provide services.

(b) ODA's designee shall enter into an agreement with each provider specifying, at a minimum, the following:



(i) The time period during which the agreement is in effect.

(ii) The region for which the provider is certified.

(iii) The rate of payment per unit the provider is willing to accept subject to any limits ODM established in rule 5160-31-07 of the Administrative Code and the appendix to rule 5160-1-06.1 of the Administrative Code for the PASSPORT program, and rule 5160-33-07 of the Administrative Code and the appendix to rule 5160-1-06.5 of the Administrative Code for the assisted living program.

(2) Applications for community transition provided through the home choice program under rule 5160-51-10 of the Administrative Code: After ODA approves an application to be a provider of community transition through the home choice program, ODA's designee shall enter into an agreement with the provider specifying the items under paragraph (F)(1) of this rule.

(G) Deemed providers: ODA may deem any provider certified by ODM or the department of developmental disabilities to provide one or more services through a medicaid-waiver program as having satisfied the requirements for certification by ODA for the same or similar services under this chapter, as determined by ODA. The effective period for a provider to be deemed an ODA-certified provider under this paragraph begins when the provider completes the deeming application process and has a provider agreement with ODA's designee, and ends if the provider cannot comply with all the requirements of Chapter 173-9 of the Administrative Code and this chapter within sixty days after initial deeming or a medicaid provider agreement is terminated, whichever occurs first.

(H) Denied application:

(1) ODA may deny a provider's application for any of the following reasons:

(a) The provider made false representations, by omission or commission, on the provider's application.

(b) The provider made false statements, provided false information, or altered records or documents.



(c) The provider is disqualified under section 173.38 or 173.381 of the Revised Code or under Chapter 173-9 of the Administrative Code.

(d) The provider does not meet the applicable requirements in rule 173-39-02 of the Administrative Code or any requirements in this chapter regulating a service that the provider is seeking certification to provide.

(e) ODA previously revoked the provider's certification.

(f) Any reason permitted or required by state or federal law.

(2) When ODA denies a provider's application, ODA notifies the provider of its final determination and any applicable hearing rights established in section 173.391 of the Revised Code.

(3) When ODA denies a provider's application, the provider is ineligible to reapply for certification for one year after the mailing date of ODA's final adjudication order.