AUTHENTICATED,
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COMMISSION
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Ohio Administrative Code

Rule 173-39-03.2 ODA provider certification: changes of ownership interest or organizational structure.

Effective: January 10, 2021

Introduction: Section 173.39 of the Revised Codeprohibits ODA from paying a provider for services provided to individualsenrolled in the PASSPORT or assisted living programs unless the provider is anODA-certified provider. ODA-certification is assigned to a provider'sfederal taxpayer identification number (TIN) and is not transferable. This ruleshall apply in all instances where there is a change of ownership interestinvolving an ODA-certified provider obtaining a new TIN according to any ruleadopted by the internal revenue service (IRS) or any change in organizationalstructure of an ODA-certified provider involving a person with an ownership ormanagement interest, including non-profit providers.

ODA will be unable to process a change of ownershipinterest or organizational structure while ODA and ODM develop a new electronicinfrastructure for processing applications.

(A) Requirements:

(1) Notification: The providers current owner(s) shall notify ODA in writing of a change of ownership interest or change of organizational structure (change) no later than forty-five days before the change, unless this chapter requires notifying ODA sooner. The current owner(s) shall email their written notice to ODA at "provider_enrollment@age.ohio.gov." In the notice, the current owner(s) shall include a notarized statement including all of the following information, as applicable and to the extent it is available to the current owner(s) at the time the notice is submitted. In the event information is not available at the time written notice is required, the current owner(s) shall supplement the written notice until all the following information is provided:

(a) Name of the provider undergoing the change.

(b) Name of each current owner, and, if any, the name of each current owner's authorized agent.

(c) Medicaid provider number and NPI of the provider after the change, if known. ODA considers the

notice to be complete if the notice is complete except for indicating the provider's number if ODM has not yet granted the provider a number, so long as the provider submits the number to ODA as soon as it is available.

(d) The following information about each new owner(s):

(i) Name.

(ii) Date of birth.

(iii) Social security number.

(iv) Percentage of ownership or control in the provider.

(v) Whether each new owner has been a resident of Ohio for the five-year period immediately preceding the date of the change of ownership interest.

(e) Date the change takes effect, as evidence by a bill of sale or purchase contract executed by both parties.

(f) Statement indicating whether the provider intends to seek payment from ODA for services it provides after the change.

(g) Names and addresses of the persons to whom ODA and its designee should send correspondence regarding the change.

(h) Any information required to show the ongoing compliance required by paragraph (B) of this rule.

(i) Signatures of the current and new owner(s).

(2) Current certification ends: If IRS rules require a provider to obtain a new TIN, the provider's certification ends on the date the change is finalized. The relinquishment of the provider's certification means a provider shall not bill ODA after the date the change is finalized.

(3) New certification required: If a provider with a new TIN intends to seek payment from ODA for services it provides after a change, the provider shall apply to become an ODA-certified provider according to the application process in rule 173-39-03 of the Administrative Code.

(4) Payment for authorized services: If ODA approves an application to become an ODA-certified provider, ODA may pay for authorized services provided during a change back to the first date on which both of the following have occurred:

(a) The provider submitted evidence the change was finalized to ODA, such as a bill of sale or an executed purchase.

(b) The new owner(s) submitted a complete application, as defined in rule 173-39-01 of the Administrative Code, to become an ODA-certified provider.

(5) Discharging residents: After an assisted-living provider has applied for new certification from ODA during a change, neither the current nor the new owner(s) shall discharge residents from the RCF for non-payment until ODA makes a final determination regarding certification of the provider.

(B) Compliance with HCBS settings requirements:

(1) Every provider is subject to the HCBS settings requirements in state and federal law, including rule 5160-44-01 of the Administrative Code and 42 C.F.R. Part 441, as indicated in rule 173-39-02 of the Administrative Code. Every provider shall maintain compliance with those requirements from the effective date of ODA certification and thereafter to maintain ODA certification.

(2) For a provider subject to federal heightened scrutiny under rule 173-39-03.1 of the Administrative Code, the new owner(s) shall, at a minimum, implement policies, procedures, to maintain compliance with the HCBS settings requirements under rules 173-39-02 and 5160-44-01 of the Administrative Code, and any other requirements under 42 C.F.R. Part 441 at the time of the change of ownership interest and thereafter. When applying for ODA certification, the new owner(s) shall email a notarized statement demonstrating compliance with this requirement to ODA at "provider_enrollment@age.ohio.gov."