

In response to FAQs, ODA (1) simplified this rule, (2) organized 3 paragraphs under the sub-headings "applicability," "limited applicability," and "inapplicability," and (3) moved the "limited applicability" language from rule 173-9-04 to this rule, (4) added "paid" and simplified the volunteer exemption, and (5) added "(pre-hire)" and "(post-hire)".

(A) Applicability: Chapter 173-9 of the Administrative Code (the chapter) applies to every paid ombudsman position and every paid direct-care position unless this rule states otherwise. (ODA defined "ombudsman position" and "direct-care position" in rule 173-9-01 of the Administrative Code.)

(B) Limited applicability: Although the chapter applies to any a person who is an applicant (pre-hire) for a paid direct-care position, a person who is an employee in one of the following paid direct-care positions is not required to undergo subsequent (post-hire) database reviews and criminal records checks:

- (1) A direct-care position that only delivers home-delivered meals.
- (2) A direct-care position that only has access to one or more consumers' personal records (e.g., a position in an office, kitchen, or central monitoring station).
- (3) A direct-care position that only provides a one-time chore service, home maintenance, home modification, home repair, or pest control. If the person provides a subsequent episode of service to the same consumer or to another consumer who is enrolled in an ODA-administered program, the person shall undergo subsequent (post-hire) database reviews and criminal records checks.

(C) Inapplicability: The chapter does not apply to the following positions:

- (1) A volunteer position.
- (2) A position that solely involves transporting consumers while working for a county transit system, regional transit authority, or regional transit commission.
- (3) A position that involves providing legal services.
- (4) A position in a residential care facility.
- (5) A position providing medicare-certified home health services.
- (6) A position that only serves consumers who are enrolled in an ODM-administered medicaid waiver program.

(D) No implied factors: Whether a position is supervised or unsupervised, alone or never alone, enters a home or never enters a home, regulated elsewhere or not regulated elsewhere is not a factor that determines if the chapter applies to the position.

(E) Chief administrators: Requirements in the chapter for responsible parties of area agencies on aging, PASSPORT administrative agencies, agency providers, and agency sub-contractors to request, review, or retain criminal records are requirements of each responsible party's chief administrator or any person that the

New exemptions from H.B.59

Another new exemption

This paragraph allows ODA to use simple language in other rules.

This paragraph is in response to FAQs that want to know if the exemptions under paragraph (C) establish an unwritten basis by which we may determine that others could be exempted.

*** DRAFT - NOT YET FILED ***

173-9-02

2

chief administrator designates for these tasks.