## OHIO REVISED CODE | OHIO ADMIN CODE | STATE DEPT | JOB POSITION | RESPONSIBLE PARTY | REVIEW DATABASES | OPEN SEALED RECORDS | PRE-HIRE, CERT, or CONTRACT | POST-HIRE, CERT, or CONTRACT | UNIFORM RULES | WEBCHECK MACHINE FINGERPRINT CODES
--- | --- | --- | --- | --- | --- | --- | --- | --- | --- | ---
§173.27 | Chapter 173-9 | ODA | Paid ombudsman position | SLTCO, RLTCO | Yes | Yes | Yes | Yes | Yes | 173 27 | Special\(^2\)

§173.38 | Chapter 173-9 | ODA | Paid direct-care position serving one or more persons in the Alzheimer’s Respite, Older Americans Act, PACE, or PASSPORT Programs | Agency provider, subcontractor, AAA, PAA, or consumer who directs a consumer-directed provider | Yes | Yes | Yes | Yes | Yes | 173 38 | Special\(^2\) (173 41\(^4\))

§173.381 | Chapter 173-9 | ODA | Self-employed provider serving one or more persons in the Alzheimer’s Respite, Older Americans Act, PACE, or PASSPORT Programs | AAA or PAA | Yes | Yes | Yes | Yes | Yes | 173 38 | Special\(^2\) (173 41\(^4\))

§3701.881 | Chapter 3701-60 | ODH | Paid or volunteer direct care in Medicare-certified home health agency | Medicare-certified home health agency | Yes | Yes | Yes | Yes | Yes | 3701 881 | 3701 881

§3712.09 | Chapter 3701-13 | ODH | Paid direct care in hospice or pediatric hospice respite | Hospice or pediatric respite provider | No | Yes | Yes | No | No | 3721 09 | 3721 09

§3721.121 | Chapter 3701-13 | ODH | Paid direct care in a nursing facility or residential care facility | No | Yes | Yes | No | No | 3721 121\(^5\) | 3721 121\(^5\)

§5119.34 | 5122-30-31 | ODMHAS | Owner, operator, employee, or volunteer position | Residential facility | Yes | No | Yes | Yes | No | NO ORC | Special\(^2\)

§5123.081 | 5123:2-2-02 | ODDD | Paid or volunteer direct-services position | Provider, subcontractor, county board, or ODDD | Yes | Yes | Yes | Yes | Yes | 5123 081 | Special\(^2\) (5126 28\(^5\))

§5123.169 | 5123:2-2-02 | ODDD | Supported living certificate holder | Certificate holder | Yes | Yes | Yes | Yes | Yes | 5123 169 | Special\(^2\)

§5164.31 | [42 CFR 455.434] | ODM | ≥5% ownership/control of a Medicaid provider agency\(^7\) | Agency provider | Yes\(^3\) | No | Yes | Yes | No | NO ORC | Special\(^2\)

§5164.34 | No Rule Adopted | ODM | Providers of Medicaid state plan services | ODM or Provider | No Rule Adopted | Yes | No Rule Adopted | 5164 34 | Special\(^2\)

§5164.341 | 5160-45-08 5160-45-11 | ODM | Independent provider of HCBS to one or more people in ODM-admin. Medicaid waiver program | ODM | Yes | Yes | Yes | Yes | Yes | 5164 342 | Special\(^2\)

§5164.342 | 5160-45-07 5160-45-11 | ODM | Paid or volunteer position providing HCBS to one or more people in ODM-admin. Medicaid waiver program | Agency provider | Yes | Yes | Yes | Yes | Yes | 5164 341 | Special\(^2\)

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1. All “yes” rules are uniform in reviewing databases, opening sealed records, 60-day conditional hiring periods, requiring pre- and post-hire criminal records checks, disqualifying offenses, standards for holding job position if disqualified. The “yes” rules don’t have uniformity in the job descriptions that require checks, criteria for proving residency, or deadlines for providing fingerprints.

2. BCII’s 12/18/2013 edition of the FBI codes does not have a code for this job position. BCII is working with FBI to develop an updated list. Contact BCII for assistance or updates.

3. Rules 173-9-04 and 173-9-04.1 make exceptions to post-hire checks for those who only deliver meals, those who only have access to consumer’s information (e.g., office and kitchen staff), and those who provide a once ever service. Rule 3701-60-02 makes exceptions to post-hire checks for those who only work in an office and do not see individuals in their homes on a routine basis. Review the rules for details.

4. Use “173 41” as the FBI reason code for a direct-care position that involves serving a person who is enrolled in the PASSPORT Program.

5. The code is “173 38” for an applicant or employee for an adult day center that furnishes services to persons who are enrolled in the Alzheimer’s Respite, Choices, Older Americans Act, PACE, or PASSPORT Programs.

6. For ODDD employees, use “5126 28.” Contact BCII for assistance or updates.

7. Federally-required provider screening when applying to become a Medicaid provider and subsequent screenings.

8. Rule 5123:2-2-02 requires checking different databases than other agency’s rules.

9. The statute permits, but does not require, ODM to require reviewing databases and checking criminal records. ODM has not adopted a rule to require either.
| OHIO REVISED CODE | OHIO ADMIN CODE | STATE DEPT | JOB POSITION | RESPONSIBLE PARTY | REVIEW DATABASES BEFORE CONDITIONAL HIRE? | FINGERPRINTS

**IF USING WEBCHECK**
SINGLE STEP DEATHLINE FOR APPLICANT TO PROVIDE FINGERPRINTS TO BCII

**IF USING IMPRESSION SHEETS**
STEP 1 DEATHLINE FOR APPLICANT TO PROVIDE FINGERPRINTS TO RESPONSIBLE PARTY
STEP 2 DEATHLINE FOR RESPONSIBLE PARTY TO PROVIDE FINGERPRINTS TO BCII

<table>
<thead>
<tr>
<th>MAX DAYS TO WAIT FOR BCII</th>
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### §173.27(F) 173-9-05 ODA
**Paid ombudsman position**
SLTCO, RLTCO
Yes
Before conditional hire
Before conditional hire
5th business day after conditional hire
60

### §173.38(H) 173-9-05 ODA
**Paid direct-care position serving one or more persons in an ODA-administered program**
Agency provider, subcontractor, AAA, PAA, or consumer who directs a consumer-directed provider
Yes
Before conditional hire
Before conditional hire
5th business day after conditional hire
60

### §173.381 173-9-05 ODA
**Self-employed provider serving one or more persons in an ODA-administered program**
AAA or PAA
No conditional status

### §3701.881(G) 3701-60-05 ODH
**Paid or volunteer direct care in Medicare-certified home health agency**
Medicare-certified home health agency
Yes
Before conditional hire
Before conditional hire
5th business day after conditional hire
60

### §3712.09(C)(2) 3701-13-04 ODH
**Paid direct care in hospice or pediatric hospice respite**
Hospice or pediatric respite provider
No
No mention
Before conditional hire
5th business day after conditional hire
30

### §3721.121(C)(2) 3701-13-04 ODH
**Paid direct care in a nursing facility or residential care facility**
Nursing facility or residential care facility
No
No mention
Before conditional hire
5th business day after conditional hire
30

### §5119.34(K)(3) 5122-30-31
Owner, operator, employee, or volunteer position
Residential facility
Yes
No motion
No mention
60

### §5123.081(G) 5122-2-2-02 ODDDD
Paid or volunteer direct-services position
Provider, subcontractor, county board, or ODDD
Yes
No motion
No mention
60

### §5123.169 5122-3-5-11 ODHAS
**Supported living certificate holder**
Certificate holder
Yes
No motion
No mention
60

### §5164.31 [42CFR455.434]
5160-1-17.8
ODM
≥5% ownership/control of a Medicaid provider agency
Agency provider
Yes
30 day after applying
No motion
No mention

### §5164.34 12
ODM
Providers of Medicaid state plan services
ODM or Provider
No Rule Adopted

### §5164.341 5160-45-08 ODM
Independent provider of HCBS to one or more people in ODM-admin, Medicaid waiver program
ODM
No conditional status

### §5164.342(G) 5160-45-07 ODM
**Paid or volunteer position providing HCBS to one or more people in ODM-admin, Medicaid waiver program**
Agency provider
Yes
5th business day after conditional hire
No motion
60

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5 When an applicant is referred by an employment service (i.e., temp. service, staffing agency), certain statutes (e.g., 173.38, 3701.881, 3712.09, and 3721.121) require special handling that this table doesn’t cover.

11 Nevertheless, rule 173-9-04.1 requires the self-employed provider to provide fingerprints upon application or bid to initiate a criminal records check. AAA/PAA won’t approve the application or bid until it reviews the criminal records.

12 The statute permits, but does not require, ODM to require reviewing databases and checking criminal records. ODM has not adopted a rule to require either.

13 Nevertheless, rule 5160-45-08 requires the independent provider to provide fingerprints upon application to initiate a criminal records check. ODM won’t approve the application until it reviews the criminal records.
## SHARING CRIMINAL RECORDS

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<th>Ohio Revised Code</th>
<th>Ohio Admin Cod</th>
<th>Subjects of Checks?</th>
<th>Subjects’ Reps? (e.g., an attorney)</th>
<th>Provider?</th>
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<th>ODM/HAS?</th>
<th>ODM+ Designees? (e.g., County Boards)</th>
<th>ODM?</th>
<th>ODM’s Designees?</th>
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<th>Courts et al?</th>
<th>Board of Nursing for Medicaid Cert?</th>
<th>Any State/local Gov’t or Private Entity With Subjects’ Consent?</th>
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14 The authority to share exists only for providers or sub-contractors who are also waiver agencies; however, §173.38 only applies to agencies, so actually not limited. For self-employed (i.e., “independent” and “non-agency”) providers, see the row for §173.381.
15 In this case, the provider is also the subject of the records.
16 The authority to share exists regarding self-employed providers who furnish services in a Medicaid waiver program (even if not an ODM-administered program).
17 The authority to share exists only for HHAs that are also community-based long-term care agencies or employment services that staff community-based long-term care agencies.
18 The authority to share exists only for HHAs that are also waiver agencies or employment services that staff waiver agencies. The section refers to the definition of “waiver agency” in §5164.342, which in turn, explicitly states that self-employed providers (i.e., independent providers”) are not waiver agencies.
19 The authority to share exists only for facilities that are also community-based long-term care providers.
20 The statute permits, but does not require, ODM to require reviewing databases and checking criminal records. ODM has not adopted a rule to require either.
21 The authority to share exists only for waiver agencies that are also community-based long-term care providers or sub-contractors. §5164.342 also explicitly states that self-employed providers (i.e., “independent providers”) are not waiver agencies. However, §5164.342 only applies to agencies.
### CROSS-REFERENCES
#### BETWEEN STATUTES & CHAPTER 173-9

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<tr>
<th>TOPIC</th>
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<th>§109.5721 (by division)</th>
<th>§173.27 (by division)</th>
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<td>Limited applicability of §§ 173.38 and 173.381: No post-hire checks for office, kitchen, or central monitoring station positions, meal delivery, or providers who furnish only one episode of service ever. 22</td>
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<td>Inapplicability of §§ 173.27, 173.38, 173.381: No pre-hire or post-hire checks for positions that are (1) volunteer, (2) drivers of county transit systems, regional transit authorities, or regional transit commissions, (3) legal services, (4) residential care facilities, (5) Medicare certified home health aides, or (6) only serve persons who are enrolled in an ODM-administered Medicaid waiver program. Other statutes may require checks for these positions, but §§ 173.27, 173.38, and 173.381 do not. 23</td>
<td>(A)(1) (A)(4)</td>
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22 Please see the rules for details.
23 Please see the rules for details.
24 Subscribing to ARCS and rapback satisfies the less-than-5-year schedules in rules 173-9-04 and 173-9-04.1.