



THE PUBLIC'S COMMENTS & ODA'S RESPONSES

ODA thanks all who submitted comments during the public comment period.

Proposed amended rules: 173-39-01, 173-39-02, 173-39-02.11, 173-39-03, 173-39-04
Period rule posted on ODA web site: August 5, 2010 to August 19, 2010
Date of this document: November 18, 2010

GENERAL STATEMENT: The Ohio Department of Aging is committed to providing services that promote choice, independence and quality of life for aging Ohioans. Consumers are the focus of our service system. Our goal is to provide an array of services and methods of service provision that support the consumers' right to choose how and by whom their services are provided.

Consumer direction is a philosophy and practice where consumers may assume the responsibility to assess their own needs, determine how and by whom those needs should be met, and evaluate the quality of the services they receive. Consumers can choose who will work for them and schedule services according to their preferences. "Self determination" and "independent living" are other terms that are sometimes used for consumer direction.

For more information, please review the self-direction handbook and other documents on the website of the National Resource Center for Participant-Directed Services (Boston College) which you can find here: <http://www.bc.edu/schools/gssw/nrcpds/> or hcbs.org/.

173-39-01 INTRODUCTION AND DEFINITIONS

	THE PUBLIC'S COMMENTS	ODA'S RESPONSES
1	<p>PARAGRAPH (B)(2): "To eliminate confusion and in support of quality of care we recommend that a definition of "activity plan" be in rule 173-39-01, Introduction and definitions, to indicate the differences between 'the consumer's service plan' which is defined and the 'consumer's activity plan' which is not defined. "<u>173-39-02.11 Personal care service (E)</u> Requirements for a consumer-directed individual provider in addition to the conditions of participation under rule 173-39-02 of the Administrative Code: (1) In general: (b) Activity plan: The consumer shall develop his or her own activity plan with the provider. The consumer and the provider shall date and sign a copy of the plan. The provider shall retain a copy of the plan."</p> <p>[Beth Foster, Regulatory Specialist; Ohio Council for Home Care and Hospice]</p>	<p>ODA modified the proposed rule to include this definition: "'Activity plan' means a description of the interventions and the dates and times that the provider will furnish the interventions."</p>

	THE PUBLIC'S COMMENTS	ODA'S RESPONSES
2	<p>PARAGRAPH (B)(3): "Would ODA want to update the definition of assessment to be consistent with the one proposed by ODJFS in their recent clearance notice for 5101:3-31-02 (D)-"Assessment" means a face-to-face evaluation and interview that is conducted to collect in-depth information about an individual. The assessment is comprehensive and identifies the individual's strengths, and care needs in the major functional areas of: physical health ,medical care utilization, activities of daily living, instrumental activities of daily living, mental and social functioning, financial resources, physical environment, and utilization of services and supports."</p> <p>[Ohio Association of Area Agencies on Aging]</p>	<p>ODJFS is currently proposing to redevelop their definition.</p>
3	<p>PARAGRAPH (B)(11): "The safety of the consumer who now takes on the role of an employer needs to be front and center. Today PASSPORT clients do not fulfill the role as the employer and our concern is for their own safety and well being. These proposed rules do NOT address them being prepared to step into this major role as evidenced in the following draft language: "<u>173-39-01 Introduction and definitions</u> - (B)(10) 'Consumer' means an individual, or the individual's authorized representative, who is enrolled in a medicaid-waiver program administered by ODA that provided community-based long-term care services or non-medicaid waiver PASSPORT services as described in section 173.40 of the Revised Code."</p> <p>[Beth Foster, Regulatory Specialist; Ohio Council for Home Care and Hospice]</p>	<p>Rule 173-39-01 of the Administrative Code merely introduces chapter 173-39 of the Administrative Code and defines terms used in that chapter. ODA is filing rule 173-42-06 of the Administrative Code to address consumer choice in the PASSPORT program.</p>
4	<p>PARAGRAPH (B)(11): "Using "consumer" to describe both the recipient of care and the authorized rep will be confusing, especially when the recipient of care is competent but perhaps not mobile and requires an authorized rep only for things needing to be done outside of the home. Perhaps the meaning of (B)(10) would be clearer if 'or the individual's authorized representative' was placed at the end of the definition for consumer."</p> <p>[Ohio Association of Area Agencies on Aging]</p>	<p>ODA removed "(or an individual's authorized representative)" from the definition of "consumer."</p>

	THE PUBLIC'S COMMENTS	ODA'S RESPONSES
5	<p>PARAGRAPH (B)(11): "Perhaps the meaning of (B)(10) would be clearer if "or the individual's authorized representative" was placed at the end of the definition for consumer."</p> <p>[Joyce Boling, RN, BS, Chief of Quality Management; Ohio District 5 Area Agency on Aging, Inc.]</p>	Please see ODA's response to comment #4.
6	<p>PARAGRAPH (B)(12): "Consumer signature – seems to allow the consumer to sign, initial, mark etc. – PAAs have been instructed to require the consumer signature as it is harder to forge, unless the consumer cannot sign and this fact is documented. This definition seems to conflict with state training."</p> <p>[Ohio Association of Area Agencies on Aging]</p>	ODA is not proposing any change in policy concerning consumer signatures. ODA counts any form of signature that the case manager documents in the consumer's care plan.
7	<p>PARAGRAPH (B)(12): "Consumer signature – seems to allow the consumer to sign, initial, mark etc. – ODA training has told us to require the consumer signature as it is harder to forge, unless the consumer cannot sign and this fact is documented. This definition seems to conflict with that training."</p> <p>[Barb Rapp, Quality Assurance Coordinator, Area Office on Aging of Northwestern Ohio, Inc.]</p>	Please see ODA's response to comment #6.
8	<p>PARAGRAPH (B)(26)(c): "addresses who may not be the CDIP. Recently we have had a consumer's daughter state she is the "secondary POA". Is the 'secondary POA' also prohibited from being the CDIP?"</p> <p>[Ohio Association of Area Agencies on Aging]</p>	ODA intends to prevent conflicts of interest. A person who is a consumer-directed individual provider may not simultaneously serve as the consumer's active power of attorney.
9	<p>PARAGRAPH (B)(26)(d): "Can HME providers really be non agency providers? "</p> <p>[Barb Rapp, Quality Assurance Coordinator, Area Office on Aging of Northwestern Ohio, Inc.]</p>	Nothing in the rules precludes this.
10	<p>PARAGRAPH (B)(26)(d): "We understand that this is not personal care, but this means that transportation, home mods, medical equipment, cannot have a staff, it must be one person. If there is a staff is they then an agency?"</p> <p>[Gwen Toney, Vice-President Government Affairs; Ohio Home, Hospice & Palliative Care Organization]</p>	<p>If a provider has staff members, the provider is an agency provider. Paragraph (B)(25)(a) of the rule shows which services an agency provider may provide.</p> <p>If the provider has no staff members, paragraph (B)(25)(d) of the rule shows which services the non-agency provider may provide.</p>

	THE PUBLIC'S COMMENTS	ODA'S RESPONSES
11	<p>PARAGRAPH (B)(28): "Why was the definition of "service plan" changed? Previously it was for services authorized by the PAA. What is the new term for the outline of services authorized by the PAA?"</p> <p>[Cathie Hoffmann, RN, PD Compliance and Support Services Manager; Homecare by Black Stone]</p>	<p>ODA is no longer proposing to revise this definition.</p>
12	<p>PARAGRAPH (B)(28): "ODA proposes to eliminate the requirement that the consumer's service plan include all services, regardless of payer source, that a consumer receives. This proposed change is inconsistent with the approved waiver (Appendix D-1-d) which states that the consumer's service plan include the 'identified participant need(s)...the frequency of service delivery, the individual or entity responsible for service delivery, and the funding source.'</p> <p>"In addition, ODJFS is proposing to modify the definition of care plan in rule 5101:3-31-02 to require that the care plan include all services regardless of payer source.</p> <p>[ODJFS]</p>	<p>ODA is no longer proposing to remove the words "regardless of the funding source for those services."</p>

173-39-02 CONDITIONS OF PARTICIPATION

	THE PUBLIC'S COMMENTS	ODA'S RESPONSES
13	<p>PARAGRAPH (B)(1)(a): "is it necessary to list all of the rules with the service names? This makes the rule lengthy."</p> <p>[Kathleen M. Geise, RN, QA Manager; Catholic Social Services/PASSPORT Administrative Agency]</p>	Please see ODA's response to comment #436.
14	<p>PARAGRAPH (B)(1)(b): "This could be simplified by stating: ODA or ODA's Designee (do not use the PAA terminology) only reimburses the provider for providing a service that is authorized by the consumer's service plan by the case manager or assessor."</p> <p>[Kathleen M. Geise, RN, QA Manager; Catholic Social Services/PASSPORT Administrative Agency]</p>	Throughout rule 173-39-02 of the Administrative Code, ODA now uses "ODA's designee" to refer to each PASSPORT administrative agency.
15	<p>PARAGRAPH (B)(1)(c): "the wording consumer behavior may be clearer to state consumer behavior and or situation. By adding and or situation will cover it all."</p> <p>[Kathleen M. Geise, RN, QA Manager; Catholic Social Services/PASSPORT Administrative Agency]</p>	ODA replaced "consumer behavior" with "change that may impact service delivery to the consumer" and placed the under paragraph (B)(1)(c) of the rule. [ODA also made the same change for the other three provider types.]
16	<p>PARAGRAPH (B)(1)(e)(iii): "Taking the consumer to the provider's place of business. I suggest to ADD and/or the direct service worker's place of residence."</p> <p>[Kathleen M. Geise, RN, QA Manager; Catholic Social Services/PASSPORT Administrative Agency]</p>	This paragraph only pertains to agency providers, not consumer-directed individual providers.
17	<p>PARAGRAPH (B)(1)(e)(viii): "We also question section (B)(1)(f)(viii); what is meant by this? Does (B)(1)(f)(ix) cover the intent?"</p> <p>[Joyce Boling, RN, BS, Chief of Quality Management; Ohio District 5 Area Agency on Aging, Inc.]</p>	ODA may revisit many of the paragraphs related to providers other than consumer-directed individual providers in 2011.

	THE PUBLIC'S COMMENTS	ODA'S RESPONSES
18	<p>PARAGRAPH (B)(4)(f): "Does authorized representative include POA?"</p> <p>[Ohio Association of Area Agencies on Aging]</p>	<p>No. ODA revised the rule to include "power of attorney" among the list of people who may not serve as a consumer's provider. [ODA also made the same change in paragraphs (C)(4)(a) and (E)(4)(d) of the rule. ODA had already proposed to add "power of attorney" to paragraph (D)(4)(g) of the rule.]</p>
19	<p>PARAGRAPH (B)(5): "Agency Providers (B) (5) Monitoring, it is noted there is a repeat in the numbering. See third paragraph: (5) (a) (ii) looks like it should be (5) (a) (iii)."</p> <p>[Ohio Association of Area Agencies on Aging]</p>	<p>The copy of this rule that ODA posted on our website for the public-comment period was enumerated incorrectly. Fortunately, ODA enumerated the actual rule correctly.</p>
20	<p>PARAGRAPH (B)(5)(a): "my question; will the provider's current policy that states all records will be retained for three years or until all audits are completed and settled still meet the rule? It would also be better to state that a written record retention policy is required so all sites would ask for the same evidence of compliance."</p> <p>[Kathleen M. Geise, RN, QA Manager; Catholic Social Services/PASSPORT Administrative Agency]</p>	<p>ODA may revisit many of the paragraphs related to providers other than consumer-directed individual providers in 2011.</p>
21	<p>PARAGRAPH (B)(5)(b): "Add that providers may store and provide records in an electronic format."</p> <p>[Ohio Association of Area Agencies on Aging]</p>	<p>ODA may revisit many of the paragraphs related to providers other than consumer-directed individual providers in 2011.</p>
22	<p>PARAGRAPH (B)(5)(b): "Please use ODA Designee rather the PAA. The wording needs to be clearer to state that we can ask to see all or any policies and documentation that may pertain to the delivery of services."</p> <p>[Kathleen M. Geise, RN, QA Manager; Catholic Social Services/PASSPORT Administrative Agency]</p>	<p>ODA may revisit many of the paragraphs related to providers other than consumer-directed individual providers in 2011.</p>
23	<p>PARAGRAPH (B)(6)(b) "sounds like a good idea to add this."</p> <p>[Kathleen M. Geise, RN, QA Manager; Catholic Social Services/PASSPORT Administrative Agency]</p>	<p>ODA is not proposing to amend the rule to add this paragraph. It is already part of the rule as it is currently in effect.</p>

	THE PUBLIC'S COMMENTS	ODA'S RESPONSES
24	<p>PARAGRAPH (C)(1)(e)(x): "The first sentence of this paragraph is incomplete. It should include a reference about notification if the provider is leaving the home during scheduled services similar to the corresponding section for agency providers."</p> <p>[Ohio Association of Area Agencies on Aging]</p>	<p>ODA corrected this mistake by inserting "without notifying the" before "the consumer's emergency contact person."</p>
25	<p>PARAGRAPH (C)(4)(b): "States the 'provider shall not allow a volunteer to provide any aspect...without supervision by the provider's supervisory staff.' This section either needs revised or deleted since this type of provider (non-agency) is defined in 173-39-01 [(B)](25)(d) as 'doesn't employ a staff.'"</p> <p>[Ohio Association of Area Agencies on Aging]</p>	<p>ODA may revisit many of the paragraphs related to providers other than consumer-directed individual providers in 2011.</p>
26	<p>PARAGRAPH (C)(5)(a): "Non Agency Providers (C) (5) Monitoring, format is inconsistent with the numbering scheme in (B) (5) Monitoring. The Records Retention paragraph in (C) is separated from the words Record Retention and the formatting digresses from there."</p> <p>[Ohio Association of Area Agencies on Aging]</p>	<p>The copy of this rule that ODA posted on our web site for a public comment period was enumerated incorrectly. Fortunately, the actual copy of the rule is enumerated correctly.</p>
27	<p>PARAGRAPH (D)(1)(c): "Two questions: first is the 'contract' to be written? If not evaluating the service will rely on a verbal contract? Second, if a written contract is needed, will the fiscal intermediary assist the consumer with examples or a format for the contract? Also, a written contract is needed to be consistent with and to be able to comply with [(D)](6) Reimbursement."</p> <p>[Ohio Association of Area Agencies on Aging]</p>	<p>ODA removed this paragraph from the rule because it is a provider-certification issue. Please see rule 173-39-03 of the Administrative Code which specifies the requirement for a provider to enter into a contract with ODA's designee.</p> <p>The financial management service is not a party to a written agreement.</p>
28	<p>PARAGRAPH (D)(1)(c): "What kind of contract is required? Will there also be a contract with ODA's designee? Does ODA have a contract template to use? The contract needs to specify more than just agreed-upon arrangements for service provisions. Does it need to include allowed tasks and specific times?"</p> <p>[Kathleen M. Geise, RN, QA Manager; Catholic Social Services/PASSPORT Administrative Agency]</p>	<p>Please see ODA's response to comment #27.</p>

	THE PUBLIC'S COMMENTS	ODA'S RESPONSES
29	<p>PARAGRAPH (D)(1)(d): "What about incident reports, how will that be handled?"</p> <p>[Holly Plotts, RN, BSN, Clinical Supervisor; Maxim Healthcare Services, Inc.; Canton Homehealth]</p>	<p>Paragraph (D)(2)(a) of this rule outlines the requirements for incident reporting.</p>
30	<p>PARAGRAPH (D)(1)(c): Words are missing in this paragraph. We recommend inserting "change in" after "significant" and before "consumer".</p> <p>[ODFJS]</p>	<p>Please see ODA's response to comment #15.</p>
31	<p>PARAGRAPH (D)(1)(d): "Suggest that section (D)(1)(d) be omitted, and add, 'a consumer's repeated refusal of services' as section (D)(1)(e)(iv)."</p> <p>[Ohio Association of Area Agencies on Aging]</p>	<p>ODA combined the paragraphs (D)(1)(d) and (D)(1)(e) of the rule. As requested, "a consumer's repeated refusal of services" appears in paragraph (D)(1)(d)(iii) of the rule.</p>
32	<p>PARAGRAPH (D)(1)(d): "Suggest that section (D)(1)(d) be omitted, and add, "a consumer's repeated refusal of services" as section (D)(1)(e)(iv)."</p> <p>[Joyce Boling, RN, BS, Chief of Quality Management; Ohio District 5 Area Agency on Aging, Inc.]</p>	<p>Please see ODA's responses to comments #15 and #31.</p>
33	<p>PARAGRAPH (D)(1)(d): "the wording consumer behavior may be clearer to state consumer behavior and or situation. By adding and or situation will cover it all."</p> <p>[Kathleen M. Geise, RN, QA Manager; Catholic Social Services/PASSPORT Administrative Agency]</p>	<p>Please see ODA's responses to comments #15 and #31.</p>
34	<p>PARAGRAPH (D)(1)(d): "Why does this section of the rule, one example is (D)(1)(d) and (e)- say "the provider shall notify ODA or 'ODA's designee" when the corresponding rule sections for other provider types says "the provider shall notify ODA or the 'PAA'?"</p> <p>[Ohio Association of Area Agencies on Aging]</p>	<p>ODA now uses "ODA's designee" when referring to a PASSPORT administrative agency in this rule.</p>

	THE PUBLIC'S COMMENTS	ODA'S RESPONSES
35	<p>PARAGRAPH (D)(1)(e)(ii): "add this required communication to B (Agency) and C (non-Agency) providers, in fact all provider types should be responsible to communicate this information for optimum coordination to meet ongoing needs with the consumer."</p> <p>[Ohio Association of Area Agencies on Aging]</p>	<p>ODA may revisit many of the paragraphs related to providers other than consumer-directed individual providers in 2011.</p>
36	<p>PARAGRAPH (D)(1)(f): "The proposed rule requires 30 day written notice when a provider is terminating services to a consumer, except in cases of "serious, imminent risk." We agree with the overall intent of the rule that consumers not be left without services because a provider leaves without notice, and we would not propose doing away with the 30 day notice. However, the same requirement is in effect in the ODJFS waivers, and it does cause issues at times when an independent provider's assessment of risk is not the same as the case manager's assessment. At times this has led to independent providers being forced to go back into situations where they feel unsafe. We understand that it is difficult to write the rule in a more specific way, because not all situations of risk can be foreseen, but we urge ODA in developing trainings for providers, consumers, and case managers to be as clear as possible in providing examples of what situations would or would not meet the criteria for not having to give 30 day notice."</p> <p>[Sarah Riegel, Research Analyst, Long-Term Care, Service Employees International Union, District 1199]</p>	<p>ODA wants to keep the requirement the way it currently stands. The current language allows a provider to contact a case manager if they cannot return to a home because they believe they are in serious, imminent risk.</p>
37	<p>PARAGRAPH (D)(1)(f): "We recommend removing imminent. If the patient and/or family are verbally abusing an agency staff person on an ongoing basis, it is that employer's responsibility to protect and offer their employee a safe working environment free from abuse."</p> <p>[Gwen Toney, Vice-President Government Affairs; Ohio Home, Hospice & Palliative Care Organization]</p>	<p>Please see ODA's response to comment #36.</p>
38	<p>PARAGRAPH (D)(1)(g): "the colon could be placed after 'following' and eliminate the repeat of 'unprofessional, disrespectful, or illegal behavior'."</p> <p>[Ohio Association of Area Agencies on Aging]</p>	<p>ODA removed the redundant language here and for the other provider agency and non-agency providers, too.</p>

	THE PUBLIC'S COMMENTS	ODA'S RESPONSES
39	<p>PARAGRAPH (D)(1)(g): "In section (D)(1)(g) the colon could be placed after 'following' and eliminate the repeat of 'unprofessional, disrespectful, or illegal behavior'."</p> <p>[Joyce Boling, RN, BS, Chief of Quality Management; Ohio District 5 Area Agency on Aging, Inc.]</p>	<p>Please see ODA's response to comment #38.</p>
40	<p>PARAGRAPH (D)(1)(g): "Conditions of Participation for Agency & Non-Agency Providers: OAC 179-39-02(B)&(C): Patient Safety vs. OAC 179-39-02(D)"</p> <p>"The existing rules for these providers include detailed requirements for ethical standards to be followed by the employee/caregivers for the benefit of the consumer. OAC 179-39-02(B)(1)(f); (C)(1)(f). In particular, these rules address the problem of acceptance of or attempts to obtain money or gifts from the consumer, improper sexual conduct, other conduct that subjects the consumer to abuse, and the prohibition against the caregiver becoming a power of attorney or other decision making authority for the consumer. In addition, the rules outline specific requirements directed to patient safety including the requirement that the agency or non-agency (Non CDIP) maintain liability insurance for injury to the patient or damage to patient property. These rules are included to assure patient safety both in their person and in their environment and the responsibility lies with the 'provider' entity that can enforce their policies through disciplinary action including termination.</p> <p>"In contrast, although OAC 179-39-02(D)(1)(g) includes the same language on ethical standards, there is no means to enforce the standards other than by the individual CDIP, who if culpable, certainly will not report the violation of the rule, nor do anything to protect the consumer from the potential exploitation. There is no process by which the PAA (ODA designee) can check or verify the compliance with these rules. More significant, there is no rule requiring CDIP's to maintain general liability insurance or other coverage to provide recourse for the consumer if there is some injury or damage resulting from the CDIP services. For example, if the CDIP drops the consumer in the process of bathing, there is no liability insurance present to cover costs of medical care.</p>	<p>Your comment regarding a means to enforce ethical standards and to protect consumers from exploitation imply other provider types (e.g., agency providers) currently enforce ethical standards and protect consumers from exploitation in a manner CDIPs can not. The reality is that there are instances of unethical behaviors and exploitation on the part of agency providers and these are usually reported by the consumer and/or his or her family member. Agency providers are no more or less likely to report a violation of ethical standards than consumer-directed individual providers. The fact is that the great majority of people who provide services and supports for older people are honest, caring, hard-working individuals. Instances of abuse, neglect, and exploitation are no more or less likely to be reported or committed by agency providers or consumer directed individual providers.</p> <p>With regard to liability insurance to be maintained by CDIPs, ODA has chosen to leave this up to each consumer participating in the consumer-directed service model. Consumers may choose to require CDIPs to maintain liability insurance and/or to be bonded.</p> <p>Your assertion that there is little or no monitoring of this provider group is incorrect. In addition to requiring annual structural compliance reviews of all provider types, including CDIPs, case managers provide routine monitoring of consumers and oversight of the services they receive. ODA has not transferred any oversight of this provider group to consumers, nor have we backed away from our oversight responsibilities.</p>

	THE PUBLIC'S COMMENTS	ODA'S RESPONSES
	<p>"As noted above, the rules provide little monitoring of this provider group and with the vulnerability of the population to be served, there is great risk for exploitation, fraud, and abuse of both the consumer and the program. Accordingly, ODA should maintain oversight authority including a consistent review period of services provided, the safety of the patient, and overall compliance independent of the CDIP. The effective transfer of ODA's responsibilities to the consumer here severely jeopardizes this vulnerable population of consumers.</p> <p>[Elizabeth Zink Pearson, Esq.; Pearson & Bernard PSC]</p>	
41	<p>PARAGRAPH (D)(1)(g): "These safeguards have been pared down from the first two provider types agency and non-agency. It is recognized that many of the CDIPs may have family relationships, but not all will be family. Items (B) (f) (i, ii, iii, vi, vii and xvi) have been eliminated for the CDIP. Does this removal leave the consumer potentially at risk from these types of inappropriate activities? This is a serious concern especially for (xvi) 'conflict of interest or takes advantage of or manipulates ODA-certified services...'. We recommend including these with modifiers as needed for family situations."</p> <p>[Ohio Association of Area Agencies on Aging]</p>	Please see ODA's response to comment #40.
42	<p>PARAGRAPH (D)(1)(g): "In Section (D)(1)(g) several items included for Agency providers have been omitted for the CDIP; they include the following items as listed in section (B)(1)(f)(i), (ii), (iii), (vi), (vii), (xii), and (xvi). With a minor adjustment to (iii), it seems appropriate that all of these items should be included for the CDIP."</p> <p>[Joyce Boling, RN, BS, Chief of Quality Management; Ohio District 5 Area Agency on Aging, Inc.]</p>	Please see ODA's response to comment #40.
43	<p>PARAGRAPH (D)(2)(b): "In addition to abuse, neglect and exploitation of a consumer, we would add suspicions of financial fraud as something a provider is required to report."</p> <p>[Sarah Riegel, Research Analyst, Long-Term Care, Service Employees International Union, District 1199]</p>	You are correct that "financial fraud" is an item for mandatory reporting. ODA believes that "financial fraud" already falls into the definition of exploitation, so we will keep the language the same. Please see division (G) of section 5101.60 of the Ohio Revised Code.

	THE PUBLIC'S COMMENTS	ODA'S RESPONSES
44	<p>PARAGRAPH (D)(2)(c) "Notes that the provider must supply proof of auto insurance and implies CDIPs can transport consumers. Should there be some distinction noting that proof of auto insurance is supplied if the CDIP will be providing the HCAS where transportation is allowed vs. personal care service where it is not?"</p> <p>[Ohio Association of Area Agencies on Aging]</p>	ODA removed this language from this rule.
45	<p>PARAGRAPH (D)(2)(c): "please clarify that PASSPORT consumers can not be transported by the C-DIP"</p> <p>[Kathleen M. Geise, RN, QA Manager; Catholic Social Services/PASSPORT Administrative Agency]</p>	Please see ODA's response to comments #43 and 98.
46	<p>PARAGRAPH (D)(2) (ON LIABILITY INSURANCE): "PASSPORT requires both agency and non-agency providers to carry insurance coverage for consumer loss due to theft or property damage; however, it is not included for the CDIP. Since the potential exists that a CDIP could be guilty of consumer theft or property damage, would we not want them to have this coverage?"</p> <p>[Joyce Boling, RN, BS, Chief of Quality Management; Ohio District 5 Area Agency on Aging, Inc.]</p>	A consumer-directed individual provider is an employee of the consumer, not a business entity, unlike an agency or non-agency provider. The consumer is free to require his or her consumer-directed individual provider to obtain insurance.
47	<p>PARAGRAPH (D)(2) (ON LIABILITY INSURANCE): "Consumer directed individual should be required to meet the same requirements that the nonagency providers since they are also an individual. The IP should be required to carry liability insurance so if they cause some harm the beneficiary there is some recourse for recovery of injuries."</p> <p>[Gwen Toney, Vice-President Government Affairs; Ohio Home, Hospice & Palliative Care Organization]</p>	Please see ODA's response to comment #46.

	THE PUBLIC'S COMMENTS	ODA'S RESPONSES
48	<p>PARAGRAPH (D)(2) (ON LIABILITY INSURANCE): "IPs should have to maintain some minimum of cover of liability insurance to protect the beneficiary. ADD THIS SECTION: (d) The provider shall maintain a minimum of one million dollars in commercial liability insurance or professional liability insurance."</p> <p>[Gwen Toney, Vice-President Government Affairs; Ohio Home, Hospice & Palliative Care Organization]</p>	Please see ODA's response to comment #46.
49	<p>PARAGRAPH (D)(2) (ON LIABILITY INSURANCE): "For the protection of the consumer, the consumer-directed individual provider should maintain the same requirements of a minimum of one million dollars in commercial or professional liability insurance and shall maintain insurance coverage for consumer loss due to theft or property damage caused by the provider with written instructions to obtain reimbursement for such losses. This is consistent with the requirements of both Agency and non-Agency providers."</p> <p>[Tom DiMarco, Interim HealthCare, Inc.]</p>	Please see ODA's response to comment #46.
50	<p>PARAGRAPH (D)(2) (ON LIABILITY INSURANCE): "How will any liability issues for accident, injury or other issues be managed if the consumer is the employer of record? Will the consumer or CDIP be required to maintain commercial or professional insurance?? Will this be in the minimum amount of \$1,000,000 as is required of Agency and Non-Agency providers? Will the CDIP be required to maintain insurance for consumer loss due to theft or property damage? Will the consumer or CDIP be required to maintain workers compensation insurance? If not, what will happen to the CDIP if he or she suffers a work related injury?"</p> <p>[Craig A. Smith, Esq.; Interim HealthCare, Inc.]</p>	<p>As a safeguard, ODA requires the consumer to purchase workers' compensation coverage for his or her consumer-directed individual provider. Because this rule regulates the consumer-directed individual provider and not the consumer, such a requirement does not appear in this rule.</p> <p>Also, please see ODA's response to comment #46.</p>

	THE PUBLIC'S COMMENTS	ODA'S RESPONSES
51	<p>PARAGRAPH (D)(2) (ON LIABILITY INSURANCE): "How will any liability issues for accident, injury or other issues be managed if the consumer is the employer of record? Will the consumer or CDIP be required to maintain liability and theft insurance? Will the consumer or CDIP be required to maintain workers compensation insurance?"</p> <p>[Jennifer Hall, RN, administrator, Interim HealthCare, Inc. of Dayton]</p>	Please see ODA's responses to comments #46 and #50.
52	<p>PARAGRAPH (D)(2) (ON LIABILITY INSURANCE): "How will liability issues be handled if the consumer is the employer of record?"</p> <p>[Andrew Aust, Maxim Healthcare Services, Inc.]</p>	Please see ODA's response to comment #46.
53	<p>PARAGRAPH (D)(2) (ON LIABILITY INSURANCE): "How will any liability issues for accident, injury or other issues be managed if the consumer is the employer of record?"</p> <p>[John Borns, Healthcare Recruiter; Maxim Healthcare Services; Moraine, OH]</p>	Please see ODA's response to comment #46.
54	<p>PARAGRAPH (D)(2) (ON LIABILITY INSURANCE): "How will any liability issues for accident, injury or other issues be managed if the consumer is the employer of record?"</p> <p>[Robert Harris, Accounts Manager; Maxim Healthcare Services; Moraine, OH]</p>	Please see ODA's response to comment #46.
55	<p>PARAGRAPH (D)(2) (ON LIABILITY INSURANCE): "How will any liability issues for accident, injury or other issues be managed if the consumer is the employer of record?"</p> <p>[Matthew T. Sotcan, Accounts Manager; Maxim Healthcare Services, Inc.]</p>	Please see ODA's response to comment #46.
56	<p>PARAGRAPH (D)(2) (ON LIABILITY INSURANCE): "In the case of injury or accident how will liability be managed if the consumer is the employer of record?"</p> <p>[Michael B. Brubaker, Accounts Manager; Maxim Healthcare Services, Inc. of Youngstown]</p>	Please see ODA's response to comment #46.

	THE PUBLIC'S COMMENTS	ODA'S RESPONSES
57	<p>PARAGRAPH (D)(2) (ON LIABILITY INSURANCE): "How will the other liability issues will be handled?"</p> <p>[Daniel Brad, General Manager; Comfort Keepers #178]</p>	Please see ODA's response to comment #46.
58	<p>PARAGRAPH (D)(2) (ON LIABILITY INSURANCE): "How will liabilities be managed (injuries, etc.)"</p> <p>[Jeremy Markewicz; Maxim Healthcare Services]</p>	Please see ODA's response to comment #46.
59	<p>PARAGRAPH (D)(3): "IPs should also be required to comply with all laws. The language seems to say only the confidentiality is requirement not all laws. Move including to in front of governing to read more clearly...'Confidentiality: The provider shall comply with all state and federal laws and regulations including those governing consumer confidentiality but not limited to, 42 C.F.R. 431.300 to 431.307, and 45 C.F.R. parts 160, 162, and 164.'"</p> <p>[Gwen Toney, Vice-President Government Affairs; Ohio Home, Hospice & Palliative Care Organization]</p>	This paragraph only pertains to confidentiality, not all laws.
60	<p>PARAGRAPH (D)(3) "What would these records be?"</p> <p>[Ohio Association of Area Agencies on Aging]</p>	ODA removed the words "and retain records showing compliance with" from the paragraph.
61	<p>PARAGRAPH (D)(3): "What would these records be?"</p> <p>[Barb Rapp, Quality Assurance Coordinator, Area Office on Aging of Northwestern Ohio, Inc.]</p>	Please see ODA's response to comment #59.
62	<p>PARAGRAPH (D)(3): "this is very important and needs to clarify what we expect them to have to show compliance."</p> <p>[Kathleen M. Geise, RN, QA Manager; Catholic Social Services/PASSPORT Administrative Agency]</p>	Please see ODA's response to comment #59.
63	<p>PARAGRAPH (D)(4)(b): "This paragraph incorrectly references rule 5101:3-1-17.3. The correct rule citation is 5101:3-1-17.2."</p> <p>[ODJFS]</p>	ODA now cites rule 5101:3-31-17.2 of the Administrative Code, not rule 5101:3-31-17.3 of the Administrative Code.

	THE PUBLIC'S COMMENTS	ODA'S RESPONSES
64	<p>PARAGRAPH (D)(4)(d)(iii): "In section (D)(4)(d)(iii) USA permanent residence card is identified; whereas in OAC 173-39-03 the term 'Alien identification card' is used. Are these the same?"</p> <p>[Ohio Association of Area Agencies on Aging]</p>	<p>ODA now uses "United States of America permanent residence card" both rules when referring to consumer-directed individual providers.</p>
65	<p>PARAGRAPH (D)(4)(d)(iii): "In section (D)(4)(d)(iii) USA permanent residence card is identified; whereas in OAC 173-39-03 the term 'Alien identification card' is used. Are these the same?"</p> <p>[Joyce Boling, RN, BS, Chief of Quality Management; Ohio District 5 Area Agency on Aging, Inc.]</p>	<p>In all language regarding consumer-directed individual providers, ODA now uses "United States of America permanent residence card."</p>
66	<p>PARAGRAPH (D)(4)(e): "What method does ODA use to verify that the provider can read write and understand English to comply with the rules?"</p> <p>[Gwen Toney, Vice-President Government Affairs; Ohio Home, Hospice & Palliative Care Organization]</p>	<p>It is incumbent upon ODA's designee to ensure the applicant can read, write, and understand English based upon application materials.</p>
67	<p>PARAGRAPH (D)(4)(e): "Can the provider use an interpreter to meet this requirement? With many nationalities in our PAAs, we anticipate some CDIPs may not be able to meet this without an interpreter's assistance and yet the consumer will choose them as their provider (CDIP)."</p> <p>[Ohio Association of Area Agencies on Aging]</p>	<p>No.</p>
68	<p>PARAGRAPH (D)(4)(e): "173-39-02(D)(4)(e), (D)(5)(a)(ii), (D)(5)(b) – other paragraphs, such as (D)(1)(b), that list consumer directed services include a reference to rule 173-39-02.2 (alternative meals service), but that service is not listed in the three paragraphs listed. Should a reference to alternative meals service be included here?"</p> <p>[ODJFS]</p>	<p>ODA now cites rule 173-39-02.2 of the Administrative Code.</p>
69	<p>PARAGRAPH (D)(4)(e): "is it necessary to write all the rules out? At least can we use OAC for an abbreviation for Ohio Administrative Code?"</p> <p>[Kathleen M. Geise, RN, QA Manager; Catholic Social Services/PASSPORT Administrative Agency]</p>	<p>The Legislative Service Commission's rule drafting manual dictates how state agencies cite rules when drafting rule language.</p> <p>Also, please see ODA's response to comment #436.</p>

	THE PUBLIC'S COMMENTS	ODA'S RESPONSES
70	<p>PARAGRAPH (D)(4)(h): "Consumer-directed individual providers should be required to have a permanent mailing address on file with ODA. Proposed regulations only require a telephone service and a "secure place for retaining consumer records."</p> <p>[Tom DiMarco, Interim HealthCare, Inc.]</p>	<p>The consumer-directed individual provider is an employee of the consumer and, as such, does not need to list a business address. The consumer's home is the business address.</p> <p>The consumer-directed individual provider is required to have a physical address to apply to become a Medicaid provider and to remain a Medicaid provider. The provider does this through the Ohio Dept. of Job and Family Services.</p>
71	<p>PARAGRAPH (D)(4)(i): "where would this place be, at the consumer's home or the provider's home? If at the consumer's home the provider takes the chance records they are responsible for would be lost, if at the provider's home, these provider's move a lot. How secure would these records be?"</p> <p>[Barb Rapp, Quality Assurance Coordinator, Area Office on Aging of Northwestern Ohio, Inc.]</p>	<p>ODA does not dictate <i>where</i> the provider stores the records, just that he or she stores the records <i>securely</i>.</p>
72	<p>PARAGRAPH (D)(4)(i): "The provider shall have a secure locked place for retaining records that is NOT the patient's home."</p> <p>[Gwen Toney, Vice-President Government Affairs; Ohio Home, Hospice & Palliative Care Organization]</p>	<p>Please see ODA's response to comment #70.</p>
73	<p>PARAGRAPH (D)(4)(i): "Should say that the consumer records should be 'locked'- it says this in the agency section"</p> <p>[Ohio Association of Area Agencies on Aging]</p>	<p>Please see ODA's response to comment #70.</p>
74	<p>PARAGRAPH (D)(4)(k): "Who is responsible for criminal background check costs?"</p> <p>[Andrew Aust, Maxim Healthcare Services, Inc.]</p>	<p>State law requires the employer who requests the criminal records check to pay for the check, but allows that person to pass on the full cost of the check to the applicant. That means the consumer pays, but may require the person that he or she wants to be his or her consumer-directed individual provider to pay.</p> <p>The Ohio Revised Code, not this rule, dictates who must pay for a criminal records check. The code says the requestor of the check (<i>i.e.</i>, the consumer) pays, but may pass the cost on to the applicant (<i>i.e.</i>, the consumer-directed individual provider).</p> <p>Please see division (C)(3) of section 109.572 of the Revised Code.</p>

	THE PUBLIC'S COMMENTS	ODA'S RESPONSES
75	<p>PARAGRAPH (D)(4)(k): "Criminal background check [(D)(4)(k)]: who is responsible for the cost of the background check – the employer, the provider, or the PAA?"</p> <p>[David Tramontana, Black Stone Home Care Companies]</p>	Please see ODA's response to comment #74.
76	<p>PARAGRAPH (D)(4)(k): "Is the provider responsible for the cost of the criminal background check?"</p> <p>[Dustin Namack, Account Manager; Maxim Healthcare Services, Inc.]</p>	Please see ODA's response to comment #74.
77	<p>PARAGRAPH (D)(4)(k): "where are the reports sent? To ODA's designee to the consumer or to the C-DIP?"</p> <p>[Kathleen M. Geise, RN, QA Manager; Catholic Social Services/PASSPORT Administrative Agency]</p>	<p>State law requires the Bureau of Criminal Information and Investigation to send the criminal records report to the employer who requested it, which is the consumer.</p> <p>Also, please see ODA's response to comment #74.</p>
78	<p>PARAGRAPH (D)(4)(l): "ODA designee's mandatory training sessions, please define what these are and how often are they required? If this is required here then should it be required for all of our providers?"</p> <p>[Kathleen M. Geise, RN, QA Manager; Catholic Social Services/PASSPORT Administrative Agency]</p>	ODA plans to require this of all provider types periodically. Mandatory provider training by ODA (or its designee) is currently under development.
79	<p>PARAGRAPH (D)(4)(l): "What would these mandatory trainings be and who will be providing them?"</p> <p>[Ohio Association of Area Agencies on Aging]</p>	This is yet to be determined.
80	<p>PARAGRAPH (D)(4)(l): "what would these mandatory trainings be and who will be providing them?"</p> <p>[Barb Rapp, Quality Assurance Coordinator, Area Office on Aging of Northwestern Ohio, Inc.]</p>	Please see ODA's response to comments #78 and #79.
81	<p>PARAGRAPH (D)(5)(a): "HIPAA requires that billing records must be keep for 10 years, does the state follow the same guideline?"</p> <p>[Gwen Toney, Vice-President Government Affairs; Ohio Home, Hospice & Palliative Care Organization]</p>	Please see paragraph (D)(5)(a) of the rule.

	THE PUBLIC'S COMMENTS	ODA'S RESPONSES
82	<p>PARAGRAPH (D)(5)(a)(ii): "173-39-02(D)(4)(e), (D)(5)(a)(ii), (D)(5)(b) – other paragraphs, such as (D)(1)(b), that list consumer directed services include a reference to rule 173-39-02.2 (alternative meals service), but that service is not listed in the three paragraphs listed. Should a reference to alternative meals service be included here?"</p> <p>[ODJFS]</p>	<p>ODA now cites rule 173-39-02.2 of the Administrative Code.</p>
83	<p>PARAGRAPH (D)(5)(a)(ii): "how will the record retention be monitored for C-DIP, do they need a signed policy that we keep on file?"</p> <p>[Kathleen M. Geise, RN, QA Manager; Catholic Social Services/PASSPORT Administrative Agency]</p>	<p>The PAA will monitor the consumer-directed individual provider as part of the provider structural compliance review. No, there is no requirement to sign a special policy on the matter.</p> <p>ODA will train PAAs on implementation in the near future.</p>
84	<p>PARAGRAPH (D)(5)(b): "173-39-02(D)(4)(e), (D)(5)(a)(ii), (D)(5)(b) – other paragraphs, such as (D)(1)(b), that list consumer directed services include a reference to rule 173-39-02.2 (alternative meals service), but that service is not listed in the three paragraphs listed. Should a reference to alternative meals service be included here?"</p> <p>[ODJFS]</p>	<p>ODA now cites rule 173-39-02.2 of the Administrative Code.</p>
85	<p>PARAGRAPH (D)(5)(b): "Access requires the provider to allow access at the provider's workplace to all records – where would this [work]place be, at the consumer's home or the provider's home? At the consumer's home the provider does not have authority to allow access to the consumer's home."</p> <p>[Ohio Association of Area Agencies on Aging]</p>	<p>ODA revised the language to require the consumer-directed individual provider to allow access to all records, but to not require the provider to do so in a specific location. This allows flexibility.</p>
86	<p>PARAGRAPH (D)(5)(b): "where would this [work]place be, at the consumer's home or the provider's home? At the consumer's home the provider does not have authority to allow access to the consumer's home."</p> <p>[Barb Rapp, Quality Assurance Coordinator, Area Office on Aging of Northwestern Ohio, Inc.]</p>	<p>Please see ODA's response to comment #85.</p>

	THE PUBLIC'S COMMENTS	ODA'S RESPONSES
87	<p>PARAGRAPH (D)(5)(b): "Please define their workplace for the C-DIP, is it their home office? Can they agree to meet at the ODA's designee's office?"</p> <p>[Kathleen M. Geise, RN, QA Manager; Catholic Social Services/PASSPORT Administrative Agency]</p>	Please see ODA's response to comment #85.
88	<p>PARAGRAPH (D)(6): "Consumer/provider contracts (D)(6): rules state that the CDIP will enter into a "contract" with the consumer that establishes reimbursement levels. How will these contracts be developed? Will there be a standard contract? Is the rate negotiated or set by ODA? Who will ensure that consumer is of sound mind to executive a contract?"</p> <p>[David Tramontana, Black Stone Home Care Companies]</p>	ODA revised this paragraph to clarify that a written agreement between the consumer and the provider under the Choices program involves a negotiated rate, but a contract with the PAA under PASSPORT program involves a set rate for consumer-directed individual providers.
89	<p>PARAGRAPH (D)(6): "What are the requirements of these contracts? Is the rate negotiated or will it be set by ODA? Who is required to review and maintain these contracts? Will they be standardized or will they be specific to each consumer directed participant?"</p> <p>[Craig A. Smith, Esq.; Interim HealthCare, Inc.]</p>	Please see ODA's response to comment #88.
90	<p>PARAGRAPH (D)(6): "What are the requirements of these contracts? Is the rate negotiated or will it be set by ODA? Who is required to review and maintain these contracts? Will they be standardized or will they be specific to each consumer directed participant?"</p> <p>[Jennifer Hall, RN, Administrator, Interim HealthCare, Inc. of Dayton]</p>	Please see ODA's response to comment #88.
91	<p>PARAGRAPH (D)(6): "What are the requirements of these contracts? Is the rate negotiated or will it be set by ODA? Who is required to review and maintain these contracts? Will they be standardized or will they be specific to each consumer directed participant?"</p> <p>[John Borns, Healthcare Recruiter; Maxim Healthcare Services; Moraine, OH]</p>	Please see ODA's response to comment #88.

	THE PUBLIC'S COMMENTS	ODA'S RESPONSES
92	<p>PARAGRAPH (D)(6): "What are the requirements of these contracts? Is the rate negotiated or will it be set by ODA? Who is required to review and maintain these contracts? Will they be standardized or will they be specific to each consumer directed participant?"</p> <p>[Robert Harris, Accounts Manager; Maxim Healthcare Services; Moraine, OH]</p>	Please see ODA's response to comment #88.
93	<p>PARAGRAPH (D)(6): "As a COP, CDIP enter into a "contract" with the consumer that establishes the reimbursement level. First, what are the requirements of these contracts and is the rate negotiated or is it set by the ODA?"</p> <p>[Matthew T. Sotcan, Accounts Manager; Maxim Healthcare Services, Inc.]</p>	Please see ODA's response to comment #88.
94	<p>PARAGRAPH (D)(6): "again is the consumer going to be paying the C-DIP? Is this service at a set rate? Does the rule need to mention that taxes will be paid by the financial Management service? Will there be any type of signed contract agreement with the ODA designee? Will the C-DIP be required to report changes in her address, phone number ect. as these things are normally required in our contract."</p> <p>[Kathleen M. Geise, RN, QA Manager; Catholic Social Services/PASSPORT Administrative Agency]</p>	Please see ODA's response to comment #88.
95	<p>PARAGRAPH (D)(6): "According to D1c and D6 the provider will enter into a contract with the consumer that includes the rates for service. How will these rates be determined? Who will monitor?"</p> <p>[Cathie Hoffmann, RN, PD Compliance and Support Services Manager; Homecare by Black Stone]</p>	Please see ODA's response to comment #88.
96	<p>PARAGRAPH (E)(1)(f): "Provider notification rules should include the "sale" of the ALW facility as this has already presented a problem."</p> <p>[Ohio Association of Area Agencies on Aging]</p>	ODA may revisit many of the paragraphs related to providers other than consumer-directed individual providers in 2011.
97	<p>PARAGRAPH (F) "Please clarify if (F) pertains to all provider types or just AL providers."</p> <p>[Ohio Association of Area Agencies on Aging]</p>	ODA added the clarifying words "of any type" to the paragraph.

173-39-02.11 PERSONAL CARE SERVICE

	THE PUBLIC'S COMMENTS	ODA'S RESPONSES
98	<p>PARAGRAPH (A): "We are considered that the requirement that services "must be provided in the consumer's place of residence" is too restrictive. As written, this would seem to say that a provider could not assist a consumer with activities outside the home like shopping or going to church. Consumers should have the right to be as active in the community as possible, and this should be reflected in the rules."</p> <p>[Sarah Riegel, Research Analyst, Long-Term Care, Service Employees International Union, District 1199]</p>	<p>With this rule, ODA is not expanding the tasks involved in the personal care service.</p> <p>The personal care service rule does not limit a consumer's ability to have activities outside the home. The activities that you mentioned are available through other PASSPORT services, such as the independent living assistance service or the non-medical transportation service.</p> <p>Allowing the service to be provided outside of the consumer's place of residence is an item that ODA may explore for future development of this service.</p>
99	<p>PARAGRAPH (A): "We were unaware that the CDIP would be permitted to transport the consumer. For other non-Transportation providers we have always considered this to be a liability issue. There is no mention in the service specifications related to this activity. Yet section (B)(2)(c) [of rule 173-39-02 of the Administrative Code] requires "... proof of automobile liability insurance, if the provider uses a motor vehicle to transport the consumer."</p> <p>[Joyce Boling, RN, BS, Chief of Quality Management; Ohio District 5 Area Agency on Aging, Inc.]</p>	<p>Please see ODA's response to comments #44 and #98.</p>
100	<p>PARAGRAPH (A): "For code of ethics do we want to add that the C-DIP for PASSPORT that they can not transport the consumer; and that they can not bring the consumer to their residence?"</p> <p>[Kathleen M. Geise, RN, QA Manager; Catholic Social Services/PASSPORT Administrative Agency]</p>	<p>Please see ODA's response to comment #98.</p> <p>[Note: Such a prohibition would appear in paragraph (A) of rule 173-39-02.11 of the Administrative Code, not paragraph (D)(1)(g) of rule 173-39-02 of the Administrative Code.]</p>
101	<p>PARAGRAPH (D)(1)(e): "[At the beginning of the sentence] Delete "offers to" and change to 'provides[]' and at the end of the sentence [add] 'when requested'."</p> <p>[Ohio Association of Area Agencies on Aging]</p>	<p>Thank you for your suggestion.</p>

	THE PUBLIC'S COMMENTS	ODA'S RESPONSES
102	<p>PARAGRAPH (D)(2)(b): "Section (D)(2)(b) only includes that section PCA staff who meet the requirements in '(D)(2)(a)(v)' is required to complete written and skill testing. Sections (D)(2)(a)(iii) and (D)(2)(a)(iv) need to also be included here."</p> <p>[Ohio Association of Area Agencies on Aging]</p>	<p>The methods for a person to be a PCA listed under (D)(2)(a)(i) to (D)(2)(a)(iv) all have their own testing, certification, etc. That is why paragraph (D)(2)(b) of the rule only requires testing and return demonstration for the method for a person to be a PCA listed under (D)(2)(a)(v) of the rule.</p>
103	<p>PARAGRAPH (D)(2)(b): "Section (D)(2)(b) only includes that section PCA staff who meet the requirements in '(D)(2)(a)(v)' is required to complete written and skill testing. Sections (D)(2)(a)(iii) and (D)(2)(a)(iv) need to also be included here."</p> <p>[Joyce Boling, RN, BS, Chief of Quality Management; Ohio District 5 Area Agency on Aging, Inc.]</p>	<p>Please see ODA's response to comment #102.</p>
104	<p>PARAGRAPH (D)(3)(a): "Add if PCA not present at supervisory visit, then Supervisor must review with PCA. Add a signature that PCA has reviewed the plan."</p> <p>[Ohio Association of Area Agencies on Aging]</p>	<p>ODA does not plan to revise this paragraph.</p>
105	<p>PARAGRAPH (E)(1)(a)(i): "The consumer/employer should be responsible for developing their back-up plan for providing services when their IP is unavailable. Consumers identified for consumer-directed services are called to be responsible for their own care needs. It fosters their ability, skill and resourcefulness with all planning of care; and it fosters keeping family/other informal resources involved with consumer care and planning. Since some CDIPs are not family-related this requirement may result with care needs being met by person that consumer may not desire. This should remain a primary responsibility of consumer/authorized Representative and CDIP can assist if needed, but should not be required."</p> <p>[Ohio Association of Area Agencies on Aging]</p>	<p>We agree with your comment and we have removed this paragraph from the rule. As the employer, the consumer is responsible for the development of the back-up plan. ODA now addresses this matter in proposed new rule 173-42-06 of the Administrative Code.</p>

	THE PUBLIC'S COMMENTS	ODA'S RESPONSES
106	<p>PARAGRAPH (E)(1)(a)(i): "Agency PASSPORT providers are required to have the ability to provide the personal care services 7 days a week, to provide a nurse supervisor for emergency response, and have a "back-up" plan for service delivery in the event of their caregiver's absence. OAC 179-39-02.11(d)(1). These requirements are essential to the safety of the consumer.</p> <p>"The proposed regulation on CDIP's performing Personal Care Services, OAC 173-39-02.11(E) lacks the protections specific to the 7 day of week availability and more notable the nurse supervisor for emergency response. OAC 173-39-02.11(E) provides only that the PAA case manager "may" require a back-up plan for services and the condition that the provider will furnish services as agreed with the consumer.</p> <p>[Elizabeth Zink Pearson, Esq.; Pearson & Bernard PSC]</p>	Please see ODA's response to comment #105.
107	<p>PARAGRAPH (E)(1)(a)(i): "In regards to the proposal to allow Consumer Directed Independent Providers to provide personal care services, immediately thoughts of worry and concern shoot through my head. Many of these consumers do not have many family members or individuals who are there for them on a regular basis and is why they need these services. With the backing of a strong agency they have a full support staff of qualified and experienced professionals at their disposal 24 hours a day, 7 days a week. With CDIP there is not that same support for these individuals. Many of time, these consumers call our company because they need someone to talk to get them through some troubles they are having or to let out some frustrations with their families who leave them in neglect. We are there for these people any hour of the day, because service is more than the two or four hours a day that you have an aide in the home assisting with PCA and ADL's, it is doing what ever is in our power to increase the quality of life.</p> <p>Back up planning: Many of time an IP (CDIP) cannot make it to their shift, even if it is due to reasons beyond their control. This usually results in the consumer going without coverage. Why, because there is not a strong back up pool available to assist in emergency situations. My office alone employs over 415 active field staff that are available to call at any time of the day. I am not guaranteeing that we will have 100% staffing</p>	Please see ODA's response to comment #105.

	THE PUBLIC'S COMMENTS	ODA'S RESPONSES
	<p>rate, but there is a much greater chance that the shift will be filled when the consumer is receiving care through an agency when there is a call of, rather than an IP, which will provide a higher quality of service.</p> <p>[Ryan M. Kennedy, Accounts Manager; Maxim Pediatric Services, Inc.; Boardman, OH]</p>	
108	<p>PARAGRAPH (E)(1)(a)(i): "A question with all consumers receiving services from IPs, let alone CDIPs, is the need for a back up planning. Many of these individuals are receiving home health services for one reason or another due to the fact that they are unable to care for themselves."</p> <p>[N. Paul Ceo, Community Representative]</p>	Please see ODA's response to comment #105.
109	<p>PARAGRAPH (E)(1)(a)(i): "Back-up planning: (E)(1)(a)(i) – the language states that a back-up plan may be required to ensure continuation of service, but does not discuss emergency planning. These seniors depend on the services for their everyday activities."</p> <p>[David Tramontana, Black Stone Home Care Companies]</p>	<p>Emergency planning is the shared responsibility of the case manager and the consumer.</p> <p>Also, please see ODA's response to comment #105.</p>
110	<p>PARAGRAPH (E)(1)(a)(i): "There is absolutely no mention of emergency planning within this draft. What type of emergency plan(s) will be mandated to ensure the consumer's safety and how will this be monitored?"</p> <p>[Michael B. Brubaker, Accounts Manager; Maxim Healthcare Services, Inc. of Youngstown]</p>	Please see ODA's response to comments #105 and #109.
111	<p>PARAGRAPH (E)(1)(a)(i): "The language is permissive regarding back-up planning and no mention is made of emergency planning. Will the PASSPORT Administrative Agency assure adequate back-up and emergency planning to assure health and safety? How will this be done?"</p> <p>[Craig A. Smith, Esq.; Interim HealthCare, Inc.]</p>	Please see ODA's response to comments #105 and #109.

	THE PUBLIC'S COMMENTS	ODA'S RESPONSES
112	<p>PARAGRAPH (E)(1)(a)(i): "The language is permissive regarding back-up planning and no mention is made of emergency planning. Will the PAA assure adequate back-up and emergency planning to assure health and safety?"</p> <p>[Dustin Namack, Account Manager; Maxim Healthcare Services, Inc.]</p>	Please see ODA's response to comments #105 and #109.
113	<p>PARAGRAPH (E)(1)(a)(i): "The language is permissive regarding back-up planning and no mention is made of emergency planning. Will the PASSPORT Administrative Agency assure adequate back-up and emergency planning to assure health and safety? How will this be done?"</p> <p>[Jennifer Hall, RN, Administrator, Interim HealthCare, Inc. of Dayton]</p>	Please see ODA's response to comments #105 and #109.
114	<p>PARAGRAPH (E)(1)(a)(i): "The language is permissive regarding back-up planning and no mention is made of emergency planning. Will the PASSPORT Administrative Agency assure adequate back-up and emergency planning to assure health and safety? How will this be done?"</p> <p>[John Borns, Healthcare Recruiter; Maxim Healthcare Services; Moraine, OH]</p>	Please see ODA's response to comments #105 and #109.
115	<p>PARAGRAPH (E)(1)(a)(i): "The language is permissive regarding back-up planning and no mention is made of emergency planning. Will the PASSPORT Administrative Agency assure adequate back-up and emergency planning to assure health and safety? How will this be done?"</p> <p>[Robert Harris, Accounts Manager; Maxim Healthcare Services; Moraine, OH]</p>	Please see ODA's response to comments #105 and #109.
116	<p>PARAGRAPH (E)(1)(a)(i): "In regards to back-up planning, the language is permissive and no mention is made of emergency planning. Will the PAA assure adequate backup and emergency planning to assure health and safety? If so, how will this be done?"</p> <p>[Matthew T. Sotcan, Accounts Manager; Maxim Healthcare Services, Inc.]</p>	Please see ODA's response to comments #105 and #109.

	THE PUBLIC'S COMMENTS	ODA'S RESPONSES
117	<p>PARAGRAPH (E)(1)(a)(i): "No back-up coverage in case of an emergency"</p> <p>[Daniel Brad, General Manager; Comfort Keepers #178]</p>	Please see ODA's response to comments #105 and #109.
118	<p>PARAGRAPH (E)(1)(a)(i): "Is there an emergency plan? I am concerned that there is nothing mentioned."</p> <p>[Jeremy Markewicz; Maxim Healthcare Services]</p>	Please see ODA's response to comments #105 and #109.
119	<p>PARAGRAPH (E)(1)(a)(i): "How will adequate back-up planning for emergencies be developed? This is a current requirement of agency providers."</p> <p>[Cathie Hoffmann, RN, PD Compliance and Support Services Manager; Homecare by Black Stone]</p>	Please see ODA's response to comments #105 and #109.
120	<p>PARAGRAPH (E)(1)(a)(i): "What happens when an IP calls off?"</p> <p>[Holly Plotts, RN, BSN, Clinical Supervisor; Maxim Healthcare Services, Inc.; Canton Homehealth]</p>	Please see ODA's response to comments #105 and #109.
121	<p>PARAGRAPH (E)(1)(a)(i): "If an Individual is not available to help their consumer then who will replace them?"</p> <p>[Luis Rivera, Maxim Healthcare Services, Inc.]</p>	Please see ODA's response to comments #105 and #109.
122	<p>PARAGRAPH (E)(1)(a)(i): "If an Individual is not available to help their consumer then who will replace them?"</p> <p>[Nick Woronycz; Maxim Healthcare Services, Inc.; Westlake, OH]</p>	Please see ODA's response to comments #105 and #109.
123	<p>PARAGRAPH (E)(1)(a)(i): "Finally, and one very important point is backup staff. What happens in the case where the IP is sick or cannot make it to work? An IP does not have back up staff for itself, where an agency has plenty of qualified staff to choose from. This is a huge factor because it ensures that the consumer is provided full staff and receives proper care that they deserve."</p> <p>[Steve Switzer, Maxim Healthcare Services, Inc.]</p>	Please see ODA's response to comments #105 and #109.

	THE PUBLIC'S COMMENTS	ODA'S RESPONSES
124	<p>PARAGRAPH (E)(1)(a)(i): "Another concern that I would have would be if an IP would not be able to provide services the patient would not have anyone to call to find staff to replace the worker with."</p> <p>[Nicholas Maglis, Senior Recruiter; Maxim Healthcare Services, Inc.; Poland, OH]</p>	Please see ODA's response to comments #105 and #109.
125	<p>PARAGRAPH (E)(1)(a)(i): "Also what if that one provider calls off for the day and cannot make it to work how is the patient going to be cared for? With agency providers there are many back up plans that can lead to a solution of a call off or emergency."</p> <p>[Tom Walland, Senior Healthcare Recruiter; Maxim Healthcare Services, Inc.; Painesville, OH]</p>	Please see ODA's response to comments #105 and #109.
126	<p>PARAGRAPH (E)(1)(a)(i): "What happens if there is an illness or an injury to the provider of services? Who takes care of the client then? Will there really be a backup plan? Or will these clients be forced to fend for themselves?"</p> <p>[Linda Dougherty, RN, clinical field supervisor; Maxim Healthcare Services, Inc.]</p>	Please see ODA's response to comments #105 and #109.
127	<p>PARAGRAPH (E)(1)(a)(ii): "In OAC 173-39-02.11 Personal Care Service (E) (a) (ii) 'the provider shall furnish the service as agreed upon with the consumer and as authorized in the consumer's service plan' is basis for evaluating performance with the consumer and is the basis for the payment or non-payment to the CDIP. It is interpreted that this service plan is the one in PIMS."</p> <p>[Ohio Association of Area Agencies on Aging]</p>	Yes.
128	<p>PARAGRAPH (E)(1)(b): "What is an activity plan? Should there be a definition added for this term to differentiate between a care plan?"</p> <p>[ODJFS]</p>	ODA now defines "activity plan" in rule 173-39-01 of the Administrative Code.

	THE PUBLIC'S COMMENTS	ODA'S RESPONSES
129	<p>PARAGRAPH (E)(1)(b): "In (E)(1)(b) the 'activity plan' is stipulated as the document used by the consumer and CDIP as their written plan for services furnished. Could Activity Plan be added to Definitions to make the distinction between the 'authorized service plan' and the 'activity plan' signed off by the CDIP and the consumer?"</p> <p>[Ohio Association of Area Agencies on Aging]</p>	Please see ODA's response to comment #128.
130	<p>PARAGRAPH (E)(1)(b): "No nursing supervision (E)(1)(b) – activity plans are decided on by the consumer and provider, with no requirement for nursing supervision."</p> <p>[David Tramontana, Black Stone Home Care Companies]</p>	<p>Yes.</p> <p>Also, please see ODA's response to comment #144.</p>
131	<p>PARAGRAPH (E)(1)(b): "The patient should be educated to know what services are within a personal care attendant scope of practice so the patient does not allow that individual to perform skilled services that otherwise would be performed by a nurse."</p> <p>[Gwen Toney, Vice-President Government Affairs; Ohio Home, Hospice & Palliative Care Organization]</p>	Please see ODA's response to comment #130.
132	<p>PARAGRAPH (E)(1)(b): "Who will be responsible for creating and maintaining the consumer's plan of care? Will there be standards set for the consumer's plan of care? Will there be a nurse review to be certain that the plan of care is being executed properly, as there is currently with agencies? Who is responsible to ensure that the consumer is satisfied with their services?"</p> <p>[Dan Wallace, Homecare Recruiter; Maxim Healthcare Services, Inc.]</p>	Please see ODA's response to comment #130.
133	<p>PARAGRAPH (E)(1)(b): "Will the case manager maintain a copy of the activity plan? Will there be standards regarding the activity plan? Will there be nurse review of the activity plan as is currently required for this service (and will continue to be a requirement for agency providers)?"</p> <p>[Craig A. Smith, Esq.; Interim HealthCare, Inc.]</p>	Please see ODA's response to comment #130.
134	<p>PARAGRAPH (E)(1)(b): "Will the case manager maintain a copy of the activity plan? Will there be standards regarding the activity plan? Will there be nurse review of the activity plan as is currently</p>	Please see ODA's response to comment #130.

	THE PUBLIC'S COMMENTS	ODA'S RESPONSES
	<p>required for this service (and will continue to be a requirement for agency providers)?"</p> <p>[Jennifer Hall, RN, Administrator, Interim HealthCare, Inc. of Dayton]</p>	
135	<p>PARAGRAPH (E)(1)(b): "Will the case manager maintain a copy of the activity plan? Will there be standards regarding the activity plan? Will there be nurse review of the activity plan as is currently required for this service (and will continue to be a requirement for agency providers)?"</p> <p>[John Borns, Healthcare Recruiter; Maxim Healthcare Services; Moraine, OH]</p>	Please see ODA's response to comment #130.
136	<p>PARAGRAPH (E)(1)(b): "Will the case manager maintain a copy of the activity plan? Will there be standards regarding the activity plan? Will there be nurse review of the activity plan as is currently required for this service (and will continue to be a requirement for agency providers)?"</p> <p>[Robert Harris, Accounts Manager; Maxim Healthcare Services; Moraine, OH]</p>	Please see ODA's response to comment #130.
137	<p>PARAGRAPH (E)(1)(b): "Will the CM maintain a copy of the activity plan? Will there be standards regarding the activity plan? Will there be nurse review of activity plans since it is currently required?"</p> <p>[Matthew T. Sotcan, accounts manager; Maxim Healthcare Services, Inc.]</p>	Please see ODA's response to comment #130.

	THE PUBLIC'S COMMENTS	ODA'S RESPONSES
138	<p>PARAGRAPH (E)(2) (ON CONSUMER COMPETENCY): "We recommend that language similar to another Ohio waiver program serve as the requirements a consumer would need to "employ" a CDIP:</p> <p>a) <u>In the case of an individual who is an adult, the individual is mentally alert and is, or has an authorized representative who is, capable of freely choosing, selecting, directing the actions of, and dismissing a consumer-directed individual provider (CDIP).</u> OR</p> <p>b) Other model language referenced directly from the ODA website and Choices Medicaid Waiver Program profile may be utilized in defining the conditions that the consumer would need to do in order to "employ" a CDIP: "The consumer is the 'employer of record' for Individual providers and is responsible for hiring, firing, training, and completing all necessary tax forms and payroll duties for these workers. Be willing and capable of directing provider activities as demonstrated through a consumer certification process. Participants receive extensive training on serving as 'employer of record' for the care providers they choose. Participants are responsible for all necessary tax forms and payroll duties under the Internal Revenue Code. All taxes, including worker's compensation, must be paid. A fiscal employer agent will assist participants with the financial aspects of the program."</p> <p>[Beth Foster, Regulatory Specialist; Ohio Council for Home Care and Hospice]</p>	<p>Please see ODA's proposed new rule 173-42-06 of the Administrative Code.</p>

	THE PUBLIC'S COMMENTS	ODA'S RESPONSES
139	<p>PARAGRAPH (E)(2) (ON CONSUMER COMPETENCY): "The proposed rule above places the burden on the consumer to contract with the CDIP for services which is not only burdensome on the population but places them in a likely unequal bargaining position and subject to exploitation. Even more disturbing is the rule that provides that the consumer is also the employer of record and responsible for supervising the provider. OAC 173-39-02.11(E)(2). As previously stated, this consumer group is primarily elderly and/or disabled and includes many who suffer from dementia or other forms of mental disability. Although some (likely few) consumers may be competent to oversee the daily arrival and time of the CDIP, they likely have no ability or even competence to supervise the provisions of personal care services from a quality of care perspective. It is standard in the in-home health services industry, that personal care services are supervised and consistently reviewed by a nurse to assure that adequate and safe care is being provided. CDIP's must be subject to the same professional oversight to be assured of adequate care to the consumers.</p> <p>"In addition, the characterization of the consumer as an "employer," imposes significant responsibilities upon the consumer that is a total abrogation by ODA of their responsibilities. An "employer" is required to provide workers compensation under Ohio law, must assure a discriminatory-free and safe workplace under the Civil Rights Act and in accordance with OSHA rules, and has to assure that the employee receives minimum wage and overtime pay as well as payment of FICA employment taxes. At a minimum, ODA should itself inform and advise ANY consumer who chooses a CDIP of the legal duties being imposed upon them by this choice. As written, this rule places the consumers in the same predicament that many notable people have faced in owing back FICA taxes and overtime pay to babysitters and nannies.</p> <p>[Elizabeth Zink Pearson, Esq.; Pearson & Bernard PSC]</p>	<p>Please see ODA's proposed new rule 173-42-06 of the Administrative Code.</p>

	THE PUBLIC'S COMMENTS	ODA'S RESPONSES
140	<p>PARAGRAPH (E)(2) (ON CONSUMER COMPETENCY): "The consumer will be the employer, so do [PAAs] pay the consumer? The consumer is responsible for supervising the C-DIP, maybe we should say the consumer must be capable of supervising the worker as this is not a service delivery method that will work for everyone and giving the consumer some responsibilities my help determine who may be appropriate and who would not be."</p> <p>[Kathleen M. Geise, RN, QA Manager; Catholic Social Services/PASSPORT Administrative Agency]</p>	Please see ODA's response to comment #139.
141	<p>PARAGRAPH (E)(2) (ON CONSUMER COMPETENCY): [After asked, "If you believe some consumers are capable of directing their own care, do you recommend certain criteria that a consumer must meet in order to qualify to do so?"] "The criteria should be the same as is currently being used in the Choices program"</p> <p>[Carol Orto, RN, MPA, Branch Manager, Interim HealthCare, Inc. of Cincinnati]</p>	Please see ODA's response to comment #139.
142	<p>PARAGRAPH (E)(2) (ON CONSUMER COMPETENCY): "What about the client who in not physically or cognitively able to function and has no family member to help deal with the IP?"</p> <p>[Holly Plotts, RN, BSN, Clinical Supervisor; Maxim Healthcare Services, Inc.; Canton Homehealth]</p>	Please see ODA's response to comment #139.
143	<p>PARAGRAPH (E)(2) (ON CONSUMER COMPETENCY): "What criteria will be used to determine which participants in the PASSPORT waiver are appropriate for the Consumer-Directed Individual Provider (CDIP)? Will the consumers who are determined appropriate be trained on the rules and employer responsibilities?"</p> <p>[Cathie Hoffmann, RN, PD Compliance and Support Services Manager; Homecare by Black Stone]</p>	Please see ODA's response to comment #139.

	THE PUBLIC'S COMMENTS	ODA'S RESPONSES
144	<p>PARAGRAPH (E)(2) (ON SUPERVISION, MONITORING, OR OVERSIGHT): "Review and Monitor of the quality and Progress of Care: Through companies such as ours the consumer receives extensive chart reviews, frequent check ups, and on-going communications with the doctors to communicate the level of health of the consumer. Many of these consumers have lost the will to maintain their routines and regimes to maintain their current level of care, and due to the support these individuals have from teams such as ours, it is not as easy for them to become non-compliant with doctors orders or stick to their routines and schedules. The CDIP does not have the full staff backing them to ensure that all these measures are being followed. Many of the agency providers are also Medicare certified as well as accredited which holds them to higher standard to ensure that patient progress is being made. Once again, the reason this money is set aside, and the reason there are companies such as Maxim is to ensure the highest level of care possible. By allowing CDIP this can not be ensured to a high level to match that of a company with significant resources.</p> <p>[Ryan M. Kennedy, Accounts Manager; Maxim Pediatric Services, Inc.; Boardman, OH]</p>	<p>Paragraph (A)(1) of the rule defines the personal care service. Tasks that require the supervision of a nurse are not a component of the personal care service.</p> <p>Case managers work with each consumer to assess the most-appropriate care for their needs. If the case manager determines that the consumer requires care that only a nurse may provide, the case manager will work with the consumer to obtain nursing services.</p> <p>Additionally, the case manager monitors the delivery of services on an ongoing basis.</p>
145	<p>PARAGRAPH (E)(2) (ON SUPERVISION, MONITORING, OR OVERSIGHT): "I have concerns about the use of independent providers in the Passport program. Many of these clients could easily be taken advantage of which is why supervision of the aide is very important. If you have regular supervision of the aide with a nurse then the client has a bond with the nurse as well and will share concerns about an aide with the nurse. We have heard many times from the client that they don't want to get anyone in trouble but they will still tell the nurse of problems because they are comfortable with the supervising nurse. I am very concerned that if there isn't close oversight of the aides in the home that many of these clients will be taken advantage of both emotionally and financially."</p> <p>[Christine Doggett RN, MSN, Vice-President; Home Healthcare by BlackStone]</p>	<p>Please see ODA's response to comment #144.</p>

	THE PUBLIC'S COMMENTS	ODA'S RESPONSES
146	<p>PARAGRAPH (E)(2) (ON SUPERVISION, MONITORING, OR OVERSIGHT): "In my professional opinion having a lay person assisting with medication and filling a pill box or dispenser places the consumer who needs these services @ risk. The reason that a physician orders these monitoring devices is to aid the individual with medication compliance. Any one can be taught to read bottles and properly fill a box or dispenser. However it takes an individual with a nursing education to provide other information that clients need to have. Some examples of this vital information is drug to drug interaction, food that effect certain absorption rates of medication, ATB therapy, side effects, proper storage of medication, proper insulin injection ,rotation of sites signs and symptoms of infection and the action of the drug.. These are a few out of the long list why this really put consumers @ risk. This also opens the door for more frequent trips to the hospital and physicians office. I know economically this seems that this is a more effective, but nothing can replace the care, knowledge expertise that a licensed nurse can bring to a client's home .Thank you for your time and allowing my input."</p> <p>[Deb Leson, RN, Clinical Supervisor; Maxim Healthcare Services, Inc.]</p>	Please see ODA's response to comment #144.
147	<p>PARAGRAPH (E)(2) (ON SUPERVISION, MONITORING, OR OVERSIGHT): "After reading the proposed amendmends of consumer directed independent providers with our Passport clients I would have to disagree with the amendments.</p> <p>"As a supervising nurse out in the field "looking out for" my passport clients it worries me that an independent provider will be taking care of our elderly population without any real supervision. The typical population of Passport are those who need help with their own independence and home safety. They are lonely and without family support. They rely heavily on their aide not just for ADLs and IADLs, but for support, companionship and friendship. Some may be bullied or guilted by their aides and may never report any abuse or fraud. National statistics state that only 1 in every 25 cases of elderly abuse are actually reported to an authority. I can only fear how those numbers would grow if independent providers were allowed. Also, I feel that this elderly population would be taken advantage of physically, mentally and financially by many "providers".</p>	Please see ODA's response to comment #144.

	THE PUBLIC'S COMMENTS	ODA'S RESPONSES
	<p>"As an Ohio taxpayer, it worries me that since there is no supervising agent, with the exception of the overburdened case manager, the opportunity for fraud would be endless.</p> <p>"I believe that the proposal to amend OAC rules should definitely be reviewed. Our elderly population need to be supervised and PROTECTED!</p> <p>[Linda Dougherty, RN, Clinical Field Supervisor; Maxim Healthcare Services, Inc.]</p>	
148	<p>PARAGRAPH (E)(2) (ON SUPERVISION, MONITORING, OR OVERSIGHT): "As the consumer is the employer of record, will there be periodic monitoring of the quality of services, accuracy of delivery (per the activity plan) and consumer satisfaction? These activities are currently required for this service (and will continue to be a requirement for agency providers)?"</p> <p>[Craig A. Smith, Esq.; Interim HealthCare, Inc.]</p>	<p>Through the provider structural compliance review under rule 173-39-04 of the Administrative Code, ODA's designee will provide monitoring and oversight to the consumer-directed individual provider, including a verification of paid service units according to the service plan.</p> <p>Additionally, the case manager monitors the delivery of services on an ongoing basis.</p>
149	<p>PARAGRAPH (E)(2) (ON SUPERVISION, MONITORING, OR OVERSIGHT): "As the consumer is the employer of record, will there be periodic monitoring of the quality of services, accuracy of delivery (per the activity plan) and consumer satisfaction? These activities are currently required for this service (and will continue to be a requirement for agency providers)?"</p> <p>[Jennifer Hall, RN, Administrator, Interim HealthCare, Inc. of Dayton]</p>	<p>Please see ODA's response to comment #148.</p>
150	<p>PARAGRAPH (E)(2) (ON SUPERVISION, MONITORING, OR OVERSIGHT): "As the consumer is the employer of record, will there be periodic monitoring of the quality of services, accuracy of delivery (per the activity plan) and consumer satisfaction? These activities are currently required for this service (and will continue to be a requirement for agency providers)?"</p> <p>[John Borns, Healthcare Recruiter; Maxim Healthcare Services; Moraine, OH]</p>	<p>Please see ODA's response to comment #148.</p>

	THE PUBLIC'S COMMENTS	ODA'S RESPONSES
151	<p>PARAGRAPH (E)(2) (ON SUPERVISION, MONITORING, OR OVERSIGHT): "As the consumer is the employer of record, will there be periodic monitoring of the quality of services, accuracy of delivery (per the activity plan) and consumer satisfaction? These activities are currently required for this service (and will continue to be a requirement for agency providers)?"</p> <p>[Robert Harris, Accounts Manager; Maxim Healthcare Services; Moraine, OH]</p>	Please see ODA's response to comment #148.
152	<p>PARAGRAPH (E)(2) (ON SUPERVISION, MONITORING, OR OVERSIGHT): "How closely will the IP's be supervised? There is a general lapse in communication between IP's and their supervisors. The general concern is that this will open more doors for IP's to work without the needed supervision. With every IP taking on a case the potential increase in fraud, lack of correction plans, and the increase of broken professional boundaries will be more abundant. I recommend that this is attached to the waiver program so the correct communication and supervision occurs."</p> <p>[Aaron Boone, Pediatric Recruiter; Maxim Pediatric Services, Inc.]</p>	Please see ODA's response to comment #148.
153	<p>PARAGRAPH (E)(2) (ON SUPERVISION, MONITORING, OR OVERSIGHT): "My questions/concerns are regarding the checks and balances and the quality control.</p> <p>"Who will review their documentation?</p> <p>"How will you monitor that the service is being done?</p> <p>[Holly Plotts, RN, BSN, Clinical Supervisor; Maxim Healthcare Services, Inc.; Canton Homehealth]</p>	Please see ODA's response to comment #148.

	THE PUBLIC'S COMMENTS	ODA'S RESPONSES
154	<p>PARAGRAPH (E)(2) (ON SUPERVISION, MONITORING, OR OVERSIGHT): "Oversight (E)(2) – the consumer is listed as the person responsible for oversight. Will there be periodic monitoring of the quality of services and accuracy of deliver (per the activity plan)? As we have seen time and time again in this industry, the consumer is often not in the position to advocate for him/herself, and may not report incidents for fear of losing service. Without external oversight, this problem will compound."</p> <p>[David Tramontana, Black Stone Home Care Companies]</p>	Please see ODA's response to comment #148.
155	<p>PARAGRAPH (E)(2) (ON SUPERVISION, MONITORING, OR OVERSIGHT): "In regards to competent execution and customer satisfaction, since the consumer is the employer of record, will there be periodic monitoring for quality of services, accuracy, and customer satisfaction?"</p> <p>[Matthew T. Sotcan, Accounts Manager; Maxim Healthcare Services, Inc.]</p>	Please see ODA's response to comment #148.
156	<p>PARAGRAPH (E)(2) (ON SUPERVISION, MONITORING, OR OVERSIGHT): "Furthermore, there is no requirement for ongoing monitoring and updates. Currently, the agency provider is required to monitor every 62 days."</p> <p>[David Tramontana, Black Stone Home Care Companies]</p>	Please see ODA's response to comment #148.
157	<p>PARAGRAPH (E)(2) (ON SUPERVISION, MONITORING, OR OVERSIGHT): "Agencies that are Medicare certified are held to the highest standards and therefore closely monitored and accounted for. With no direct governing party over these IP's beyond the State itself I feel that it is very hard to keep the same standards as an agency who regularly does things such as supervisory visits, competencies, annual testing, as well as a thorough interview and screening process."</p> <p>[Steve Switzer, Maxim Healthcare Services, Inc.]</p>	Please see ODA's response to comment #148.

	THE PUBLIC'S COMMENTS	ODA'S RESPONSES
158	<p>PARAGRAPH (E)(2) (ON SUPERVISION, MONITORING, OR OVERSIGHT): "I wanted to say that the idea of consumer-directed individual providers will cause for certain issues to arise involving compliance and ethical standards. Without the involvement of an agency and appropriate staff to oversee operations, it could cause a variety of different problems concerning fraud, and lack of appropriate and ideal quality service. I believe as an agency continues to be involved in operations to provide home health care, the probability is greater that the client will receive the care necessary to improve quality of life."</p> <p>[Logan Mehl, Healthcare Recruiter, Maxim Healthcare Services, Inc.]</p>	Please see ODA's response to comment #148.
159	<p>PARAGRAPH (E)(2) (ON SUPERVISION, MONITORING, OR OVERSIGHT): "How will the requirements for on-going monitoring of service delivery be documented? Will any documentation be submitted to the case manager or will these only be reviewed at the annual compliance reviews? Currently, the agency provider is required to monitor the delivery of personal care services over 6 times per year (every 62 days per (D)(3)(b) of this rule."</p> <p>[Craig A. Smith, Esq.; Interim HealthCare, Inc.]</p>	Please see ODA's response to comment #148.
160	<p>PARAGRAPH (E)(2) (ON SUPERVISION, MONITORING, OR OVERSIGHT): "How will the requirements for on-going monitoring of service delivery be documented? Will any documentation be submitted to the case manager or will these only be reviewed at the annual compliance reviews? Currently, the agency provider is required to monitor the delivery of personal care services over 6 times per year (every 62 days per (D)(3)(b) of this rule."</p> <p>[Jennifer Hall, RN, Administrator, Interim HealthCare, Inc. of Dayton]</p>	Please see ODA's response to comment #148.

	THE PUBLIC'S COMMENTS	ODA'S RESPONSES
161	<p>PARAGRAPH (E)(2) (ON SUPERVISION, MONITORING, OR OVERSIGHT): "How will the requirements for on-going monitoring of service delivery be documented? Will any documentation be submitted to the case manager or will these only be reviewed at the annual compliance reviews? Currently, the agency provider is required to monitor the delivery of personal care services over 6 times per year (every 62 days per (D)(3)(b) of this rule."</p> <p>[John Borns, Healthcare Recruiter; Maxim Healthcare Services; Moraine, OH]</p>	Please see ODA's response to comment #148.
162	<p>PARAGRAPH (E)(2) (ON SUPERVISION, MONITORING, OR OVERSIGHT): "How will the requirements for on-going monitoring of service delivery be documented? Will any documentation be submitted to the case manager or will these only be reviewed at the annual compliance reviews? Currently, the agency provider is required to monitor the delivery of personal care services over 6 times per year (every 62 days per (D)(3)(b) of this rule."</p> <p>[Robert Harris, Accounts Manager; Maxim Healthcare Services; Moraine, OH]</p>	Please see ODA's response to comment #148.
163	<p>PARAGRAPH (E)(2) (ON SUPERVISION, MONITORING, OR OVERSIGHT): "Who will keep the copy of the activity plan and who will review this routinely? Who will monitor the activity plan and ensure that the consumers are being taken care of properly? With home health companies, there is oversight, what is the oversight with this? Will it be very couple of months like the home health companies?"</p> <p>[Jeremy Markewicz; Maxim Healthcare Services]</p>	Please see ODA's response to comment #148.
164	<p>PARAGRAPH (E)(2) (ON SUPERVISION, MONITORING, OR OVERSIGHT): "PASSPORT clients are required to have an Intermediate Level of Care. Because of this, these consumers are assumed to be frail/elderly. Is a nurse going to be involved in the development of the activity plan? Will there be a nurse visit/review of activity plan periodically required as there is for the agency provider?"</p> <p>[Cathie Hoffmann, RN, PD Compliance and Support Services Manager; Homecare by Black Stone]</p>	Please see ODA's response to comment #148.

	THE PUBLIC'S COMMENTS	ODA'S RESPONSES
165	<p>PARAGRAPH (E)(2) (ON SUPERVISION, MONITORING, OR OVERSIGHT): "Under the 'Consumer Directed Individual Program' (Service Provision section) there is no reference to the requirements of provider directed supervision in the proposed rules."</p> <p>[Tom DiMarco, Interim HealthCare, Inc.]</p>	Please see ODA's response to comment #148.
166	<p>PARAGRAPH (E)(2) (ON SUPERVISION, MONITORING, OR OVERSIGHT): "Who is responsible for the ongoing monitoring of the plan of care? How will the requirements for ongoing monitoring of service delivery be documented? Will the documentation be submitted to the PASSPORT case manager or will the documents only be reviewed during the annual compliance reviews?"</p> <p>[Dan Wallace, Homecare Recruiter; Maxim Healthcare Services, Inc.]</p>	Please see ODA's response to comment #148.
167	<p>PARAGRAPH (E)(2) (ON SUPERVISION, MONITORING, OR OVERSIGHT): "So as a provider, why do we have to visit our consumers every 62 days when there will be nobody looking at the individual provider except the consumer or the CM at a minimal of 2 x year. We also have to have a nurse to provide orientation when the individual provider can receive some with the consumer and who knows what that will be. We also have to have a nurse available 24/7 but and individual provider has only to have a back up plan. Well this totally would be cheaper to do and we would be able to give more money to the caregivers if we didnt have all the over head that the provider rules include and was removed in these rules for individual provider."</p> <p>[Rebecca Jenei, RNC Genesis CareGivers Manager]</p>	Please see ODA's response to comment #148.
168	<p>PARAGRAPH (E)(2) (ON SUPERVISION, MONITORING, OR OVERSIGHT): "How will the requirements for on-going monitoring of service delivery be documented? Will any documentation be submitted to the case manager or will these only be reviewed at the annual compliance reviews? Currently, the agency provider is required to monitor the delivery of personal care services over 6 times per year (every 62 days per (D)(3)(b) of this rule."</p> <p>[Susan Crawn RN, BSN; Regional Director of</p>	Please see ODA's response to comment #148.

	THE PUBLIC'S COMMENTS	ODA'S RESPONSES
	Clinical Services, Central Region D6, Maxim Healthcare Services, Inc.]	
169	<p>PARAGRAPH (E)(2) (ON SUPERVISION, MONITORING, OR OVERSIGHT): "I am a Recruiter for a Home Healthcare Agency and was just wondering about the compliance issues that could arise from this program being started.</p> <p>"I just want to make sure that these consumers get the right care that is needed and I think the fact that agency's need to do visits every 60 days to make sure the correct care is being given is the right way to do about things.</p> <p>"We are in the business to provide good care to our clients so I just want to make sure things are done compliantly.</p> <p>[Nathan Recker, Senior Healthcare Recruiter; Maxim Healthcare Services, Inc.; Akron, OH]</p>	Please see ODA's response to comment #148.
170	<p>PARAGRAPH (E)(2) (ON SUPERVISION, MONITORING, OR OVERSIGHT): "Simple questions, what is ODA going to instill, with continued monitoring, that will ensure quality care being delivered to the consumer at all times. I think the main are of focus is with the continued monitoring; can we really rely on the consumer themselves to provide the candid feedback necessary to improve their services if and when needed? This goes right along with another large concern of Compliance with and competent execution of Activity Plans and Consumer Satisfaction, will there be a viable platform for the consumer to express themselves for the betterment of their care and to who will be the person responsible for addressing these concerns?"</p> <p>[N. Paul Ceo, Community Representative]</p>	Please see ODA's response to comment #148.
171	<p>PARAGRAPH (E)(2) (ON SUPERVISION, MONITORING, OR OVERSIGHT): "No nursing supervision"</p> <p>[Daniel Brad, General Manager; Comfort Keepers #178]</p>	Please see ODA's responses to comments #147 and #148.

	THE PUBLIC'S COMMENTS	ODA'S RESPONSES
172	<p>PARAGRAPH (E)(2) (ON SUPERVISION, MONITORING, OR OVERSIGHT): "No monitor of quality and accuracy of service delivery"</p> <p>[Daniel Brad, General Manager; Comfort Keepers #178]</p>	Please see ODA's response to comment #148.
173	<p>PARAGRAPH (E)(2) (ON SUPERVISION, MONITORING, OR OVERSIGHT): "Who will monitor and/or pay for these requirements (orientation, annual training, background checks, competency)?"</p> <p>[Daniel Brad, General Manager; Comfort Keepers #178]</p>	Please see ODA's responses to comments #73 and #148.
174	<p>PARAGRAPH (E)(2) (ON SUPERVISION, MONITORING, OR OVERSIGHT): "As far as compliance goes with the performing of Care Plans and Consumer Satisfaction: As the consumer is the employer in these situations, will there be someone overseeing the quality of services, are the services being delivered correctly (per the care plan) and are the consumers happy with the services they're receiving. These activities are currently required for this service and will continue to be a requirement for agency providers?"</p> <p>[Anthony, Czekaj, Accounts Manager; Maxim Healthcare Services, Inc.--Cleveland Adult; Beachwood, OH]</p>	Please see ODA's response to comment #148.

	THE PUBLIC'S COMMENTS	ODA'S RESPONSES
175	<p>PARAGRAPH (E)(2) (ON SPECIALIZED CASE MANAGEMENT): "Will there be specialized case management for these individualized consumers?"</p> <p>[After ODA's request for clarification] "When I say specialized case management, I am referring to someone that ensures the consumer is receiving proper care and that regulates the IP and care they are giving. I do not believe there is a need for a specialist, just more involvement from the regular case manager so that the IP's are supervised.</p> <p>"In regards to the consumers and directing their own care, I do not believe that they must qualify for this but feel that, once again, increased PASSPORT involvement would be a necessary step to ensure that the IP's are providing what is approved per the service plans.</p> <p>[Luis Rivera, Maxim Healthcare Services, Inc.]</p>	<p>Case management oversight will continue to monitor the consumer to ensure the consumer is receiving the services that have been authorized and that the consumer is receiving those services and supports that meet his or her needs. It is important for the case manager to maintain regular contact with the consumer and to be available to answer questions and help resolve problems that arise. Our experience with case management of consumers enrolled in the Choices waiver program is that the role of the case manager is somewhat different than with consumers receiving agency-directed services in that the case manager also oversees the delivery of services and supports delivered by the consumer-directed IP.</p> <p>Each PASSPORT consumer works with a case manager and will continue to work with a PASSPORT case manager. ODA will provide training to case managers on their role as a support to consumers directing their own care. The consumer is the employer and supervisor of the IP. The case manager's role is to support the consumer in these activities.</p> <p>Also, please see ODA's response to comment #148.</p>
176	<p>PARAGRAPH (E)(2) (ON SPECIALIZED CASE MANAGEMENT):</p> <ul style="list-style-type: none"> • Will there be specialized case management for individuals choosing a CDIP? <p>"That is one bullet point that really popped up at me. There needs to be supervision of all care provided by agencies and IP's alike. We can not allow agencies and IP's to supervise themselves. Agencies need to have supervision by RN's/Directors/recruiters/etc to ensure that the proper care is being provided when a case manager is not involved directly overseeing the case as well as when they are. If there is no specialized case management for IP's who will be supervising them? It does not seem like the best system to ensure total compliance/quality of care/Patient safety.</p> <p>[After ODA's follow-up request, which said, "The rule doesn't speak of a <i>specialized</i> case manager, because each consumer in PASSPORT has the same type of case manager. Do you believe</p>	<p>Please see ODA's response to comments #148 and #175.</p>

	THE PUBLIC'S COMMENTS	ODA'S RESPONSES
	<p>PASSPORT needs specially-trained case managers to help consumers who want to hire CDIPs? If so, please let us know what you envision would work best."] "We were passing around some information and everyone was putting some thoughts in and that's where I got that from. But to continue on from your question, I do believe that if CDIP's are allowed to services passport clients we need a better system of policing these services. With the shocking amount of fraudulent convictions that come from IP's compared to the percentage that they make up in the field it is obvious that what is in place now is not working. I think there needs to be some serious consideration when it comes to opening the market more to IP's for that very reason. Case managers of all sorts should be more specialized when it comes to policing IP's. Passport clients usually don't have many other people around them such as family and friends and that just gives the opening for fraudulent activity. My worry is that these people who don't have anyone at all will be taken advantage of if there is not someone directly overseeing the services that are being provided for them. If they do allow this to happen then the case managers should be specially trained and have to keep a closer eye on monitoring the services IP's are providing. So if they are going to incorporate the same system in place for monitoring IP's I think the window for fraudulent activity will just open more and unfortunately people will go without the quality of service they need and deserve."</p> <p>[Jeremy Mohorick, Senior Recruiter; Maxim Pediatric Services, Inc.; Poland, OH]</p>	
177	<p>PARAGRAPH (E)(2) (ON SPECIALIZED CASE MANAGEMENT): "Will there be specialized case management for individuals choosing a CDIP?"</p> <p>[Craig A. Smith, Esq.; Interim HealthCare, Inc.]</p>	Please see ODA's response to comments #148 and #175.
178	<p>PARAGRAPH (E)(2) (ON SPECIALIZED CASE MANAGEMENT): "Will there be specialized case management for individuals choosing a CDIP?"</p> <p>[Jennifer Hall, RN, Administrator, Interim HealthCare, Inc. of Dayton]</p>	Please see ODA's response to comments #148 and #175.

	THE PUBLIC'S COMMENTS	ODA'S RESPONSES
179	<p>PARAGRAPH (E)(2) (ON SPECIALIZED CASE MANAGEMENT): "Will there be specialized case management for individuals choosing a CDIP?"</p> <p>[John Borns, Healthcare Recruiter; Maxim Healthcare Services; Moraine, OH]</p>	Please see ODA's response to comments #148 and #175.
180	<p>PARAGRAPH (E)(2) (ON SPECIALIZED CASE MANAGEMENT): "Will there be specialized case management for individuals choosing a CDIP?"</p> <p>[Robert Harris, Accounts Manager; Maxim Healthcare Services; Moraine, OH]</p>	Please see ODA's response to comments #148 and #175.
181	<p>PARAGRAPH (E)(2) (ON SPECIALIZED CASE MANAGEMENT): "Will there be specialized case management for individuals choosing a CDIP?"</p> <p>[Matthew T. Sotcan, Accounts Manager; Maxim Healthcare Services, Inc.]</p>	Please see ODA's response to comments #148 and #175.
182	<p>PARAGRAPH (E)(2) (ON SPECIALIZED CASE MANAGEMENT): "Will there be specialized case management for these individualized consumers?"</p> <p>[Nick Woronycz; Maxim Healthcare Services, Inc.; Westlake, OH]</p>	Please see ODA's response to comments #148 and #175.
183	<p>PARAGRAPH (E)(2) (ON SPECIALIZED CASE MANAGEMENT): "I wanted to comment on the Consumer Directed Independent Providers, in regards to case management will there be a case manager who is specialized in the individual choosing a CDIP?"</p> <p>[Douglas Maybaum, Senior Recruiter; Maxim Healthcare Services, Inc.; Westlake, OH]</p>	Please see ODA's response to comments #148 and #175.
184	<p>PARAGRAPH (E)(2) (ON SPECIALIZED CASE MANAGEMENT): "How will case management be done?"</p> <p>[Daniel Brad, General Manager; Comfort Keepers #178]</p>	Please see ODA's response to comments #148 and #175.
185	<p>PARAGRAPH (E)(2) (ON SPECIALIZED CASE MANAGEMENT): "Who will be the case managers for them?"</p> <p>[Jeremy Markewicz; Maxim Healthcare Services]</p>	Please see ODA's response to comments #148 and #175.

	THE PUBLIC'S COMMENTS	ODA'S RESPONSES
186	<p>PARAGRAPH (E)(2) (ON SPECIALIZED CASE MANAGEMENT): "Will these consumers have Case Managers? Will the Case Managers be PAA employees?"</p> <p>[Cathie Hoffmann, RN, PD Compliance and Support Services Manager; Homecare by Black Stone]</p>	Please see ODA's response to comments #148 and #175.
187	<p>PARAGRAPH (E)(2) (CONSUMER TRAINING): "Will consumers receive training and be required to meet a certification process in order to be the employer of record?"</p> <p>"In addition, there are many areas of responsibilities left unclear, which could lead to instances of fraud and extra work on ODA, PAAs, or the consumers.</p> <p>[David Tramontana, Black Stone Home Care Companies]</p>	Please see ODA's proposed new rule 173-42-06 of the Administrative Code.
188	<p>PARAGRAPH (E)(2) (CONSUMER TRAINING): "Will consumers receive training and be required to meet a certification process in order to be the employer of record?"</p> <p>[Craig A. Smith, Esq.; Interim HealthCare, Inc.]</p>	Please see ODA's response to comment #187.
189	<p>PARAGRAPH (E)(2) (CONSUMER TRAINING): "Will consumers receive training and be required to meet a certification process in order to be the employer of record?"</p> <p>[Jennifer Hall, RN, Administrator, Interim HealthCare, Inc. of Dayton]</p>	Please see ODA's response to comment #187.
190	<p>PARAGRAPH (E)(2) (CONSUMER TRAINING): "Will consumers receive training and be required to meet a certification process in order to be the employer of record?"</p> <p>[John Borns, Healthcare Recruiter; Maxim Healthcare Services; Moraine, OH]</p>	Please see ODA's response to comment #187.
191	<p>PARAGRAPH (E)(2) (CONSUMER TRAINING): "Will consumers receive training and be required to meet a certification process in order to be the employer of record?"</p> <p>[Robert Harris, Accounts Manager; Maxim Healthcare Services; Moraine, OH]</p>	Please see ODA's response to comment #187.

	THE PUBLIC'S COMMENTS	ODA'S RESPONSES
192	<p>PARAGRAPH (E)(2) (CONSUMER TRAINING): "Will consumers receive some sort of training and/or education in order to become the employer of record?"</p> <p>[Michael B. Brubaker, Accounts Manager; Maxim Healthcare Services, Inc. of Youngstown]</p>	Please see ODA's response to comment #187.
193	<p>PARAGRAPH (E)(2) (CONSUMER TRAINING): "Will consumers receive training and be required to meet a certification process in order to be the employer of record?"</p> <p>[Matthew T. Sotcan, Accounts Manager; Maxim Healthcare Services, Inc.]</p>	Please see ODA's response to comment #187.
194	<p>PARAGRAPH (E)(2) (CONSUMER TRAINING): "I have some serious concerns regarding Independent Providers for consumers. Will consumers receive training and be required to meet a certification process in order to be the employer of record?"</p> <p>[Vickie L. Flatter, Director of Clinical Services; Home Health Care by Black Stone]</p>	Please see ODA's response to comment #187.
195	<p>PARAGRAPH (E)(2) (FMS): "If consumer is the employer of record for the CDIP, will there be a fiscal agent to manage payroll? Who will pay taxes/unemployment premiums/workers compensation coverage/other liability issues related to accident, injury, etc.?"</p> <p>[David Tramontana, Black Stone Home Care Companies]</p>	ODA will enter into an administrative contract with a financial management service (FMS) to provide fiscal employer/agent (FE/A) support for consumers who choose consumer directed personal care service. The FMS is responsible to manage payroll, and to ensure that taxes, unemployment and worker's compensation premiums are paid on behalf of the consumer.
196	<p>PARAGRAPH (E)(2) (FMS): "If the consumer is the employer of record for the CDIP will there be a fiscal employer agent to manage contracting and payroll responsibilities? How will this agent be reimbursed? Will the cost of the employer agent be considered part of the individual's waiver costs? How will these services be arranged by ODA (i.e. a statewide contract or delegated to the PASSPORT Administrative Agency)?"</p> <p>[Craig A. Smith, Esq.; Interim HealthCare, Inc.]</p>	Please see ODA's response to comment #195.

	THE PUBLIC'S COMMENTS	ODA'S RESPONSES
197	<p>PARAGRAPH (E)(2) (FMS): "If the consumer is the employer of record for the CDIP will there be a fiscal employer agent to manage contracting and payroll responsibilities? How will this agent be reimbursed? Will the cost of the employer agent be considered part of the individual's waiver costs? How will these services be arranged by ODA (i.e. a statewide contract or delegated to the PAA)?"</p> <p>[Jennifer Hall, RN, Administrator, Interim HealthCare, Inc. of Dayton]</p>	Please see ODA's response to comment #195.
198	<p>PARAGRAPH (E)(2) (FMS): "If the consumer is the employer of record for the CDIP will there be a fiscal employer agent to manage contracting and payroll responsibilities? How will this agent be reimbursed? Will the cost of the employer agent be considered part of the individual's waiver costs? How will these services be arranged by ODA (i.e. a statewide contract or delegated to the PAA)?"</p> <p>[John Borns, Healthcare Recruiter; Maxim Healthcare Services; Moraine, OH]</p>	Please see ODA's response to comment #195.
199	<p>PARAGRAPH (E)(2) (FMS): "If the consumer is the employer of record for the CDIP will there be a fiscal employer agent to manage contracting and payroll responsibilities? How will this agent be reimbursed? Will the cost of the employer agent be considered part of the individual's waiver costs? How will these services be arranged by ODA (i.e. a statewide contract or delegated to the PAA)?"</p> <p>[Robert Harris, Accounts Manager; Maxim Healthcare Services; Moraine, OH]</p>	Please see ODA's response to comment #195.
200	<p>PARAGRAPH (E)(2) (FMS): "If the consumer is the employer of record will CDIP be covered workers comp and will unemployment be paid?"</p> <p>[Andrew Aust, Maxim Healthcare Services, Inc.]</p>	Please see ODA's response to comment #195.
201	<p>PARAGRAPH (E)(2) (FMS): "If the consumer is the employer of record, will the CDIP be covered by worker's compensation, and will state and federal unemployment taxes be paid?"</p> <p>[Jennifer Hall, RN, Administrator, Interim HealthCare, Inc. of Dayton]</p>	Please see ODA's response to comment #195.

	THE PUBLIC'S COMMENTS	ODA'S RESPONSES
202	<p>PARAGRAPH (E)(2) (FMS): "If the consumer is the employer of record, will the CDIP be covered by worker's compensation, and will state and federal unemployment taxes be paid?"</p> <p>[Carol Orto, RN, MPA, Branch Manager, Interim HealthCare, Inc. of Cincinnati]</p>	Please see ODA's response to comment #195.
203	<p>PARAGRAPH (E)(2) (FMS): "If the consumer is the employer of record, will the CDIP be covered by worker's compensation, and will unemployment premiums be paid?"</p> <p>[John Borns, Healthcare Recruiter; Maxim Healthcare Services; Moraine, OH]</p>	Please see ODA's response to comment #195.
204	<p>PARAGRAPH (E)(2) (ON FMS): "If the consumer is the employer of record, will the CDIP be covered by worker's compensation, and will unemployment premiums be paid?"</p> <p>[Robert Harris, Accounts Manager; Maxim Healthcare Services; Moraine, OH]</p>	Please see ODA's response to comment #195.
205	<p>PARAGRAPH (E)(2) (FMS): "If the consumer is the employer of record, how will state and federal unemployment taxes be paid? Who will be responsible for these costs?"</p> <p>[Craig A. Smith, Esq.; Interim HealthCare, Inc.]</p>	Please see ODA's response to comment #195.
206	<p>PARAGRAPH (E)(2) (FMS): "Did we need to state that verification that taxes are paid must be submitted annually?"</p> <p>[Kathleen M. Geise, RN, QA Manager; Catholic Social Services/PASSPORT Administrative Agency]</p>	Please see ODA's response to comment #195.
207	<p>PARAGRAPH (E)(2) (FMS): "How will the Independent Provider pay taxes/unemployment premiums, manage payroll, be covered by worker's compensation?"</p> <p>[Daniel Brad, General Manager; Comfort Keepers #178]</p>	Please see ODA's response to comment #195.

	THE PUBLIC'S COMMENTS	ODA'S RESPONSES
208	<p>PARAGRAPH (E)(2) (FMS): "As the consumer and case manager will have behavioral control (per IRS standards regarding employment/independent contractor status) over the CDIP in terms of when and how services are provided and the time and location of those services, how will the tax liability and reporting be managed?"</p> <p>[John Borns, Healthcare Recruiter; Maxim Healthcare Services; Moraine, OH]</p>	Please see ODA's response to comment #195.
209	<p>PARAGRAPH (E)(2) (FMS): "As the consumer and case manager will have behavioral control (per IRS standards regarding employment/independent contractor status) over the CDIP in terms of when and how services are provided and the time and location of those services, how will the tax liability and reporting be managed?"</p> <p>[Robert Harris, Accounts Manager; Maxim Healthcare Services; Moraine, OH]</p>	Please see ODA's response to comment #195.
210	<p>PARAGRAPH (E)(2) (ON STATE EMPLOYMENT): "As the consumer and case manager will have behavioral control (per IRS standards regarding employment/independent contractor status) over the CDIP in terms of when and how services are provided and the time and location of those services, how will the tax liability and reporting be managed? Will the CDIP's be deemed by the IRS to be state employees? Has ODA requested an Opinion Letter from the Internal Revenue Service?"</p> <p>[Craig A. Smith, Esq.; Interim HealthCare, Inc.]</p>	<p>The consumer is the employer of record who will manage the tax liability and reporting. ODA will contract with a Financial management service, FMS as a support for the consumer in this to manage taxes, insurance and payroll generally.</p> <p>ODA has over 10 years of experience in managing consumer directed programs. The consumer-directed individual provider is an employee of the consumer, not of the state. Therefore, ODA has not requested an opinion letter from the IRS for continuing such a program. CDIPs will not be deemed by the IRS to be state employees.</p> <p>Also, please see ODA's response to comment #195.</p>
211	<p>PARAGRAPH (E)(2) (ON STATE EMPLOYMENT): "As the consumer and case manager will have behavioral control (per IRS standards regarding employment/independent contractor status) over the CDIP in terms of when and how services are provided and the time and location of those services, how will the tax liability and reporting be managed? Will the CDIP's be deemed by the IRS to be state employees?"</p> <p>[Jennifer Hall, RN, Administrator, Interim HealthCare, Inc. of Dayton]</p>	Please see ODA's response to comments #195 and #210.

	THE PUBLIC'S COMMENTS	ODA'S RESPONSES
212	<p>PARAGRAPH (E)(2) (ON STATE EMPLOYMENT): "As the consumer and case manager will have behavioral control (per IRS standards regarding employment/independent contractor status) over the CDIP in terms of when and how services are provided and the time and location of those services, how will the tax liability and reporting be managed? Will the CDIP's be deemed by the IRS to be state employees?"</p> <p>[Carol Orto, RN, MPA, Branch Manager, Interim HealthCare, Inc. of Cincinnati]</p>	<p>Please see ODA's response to comments #195 and #210.</p>
213	<p>PARAGRAPH (E)(2) (ON STATE EMPLOYMENT): "As the consumer and case manager will have behavioral control (per IRS standards) how will the IRS test of financial control be determined as the state will be making the payment for services? Will this also lead to a determination that the CDIP's are actually state employees?"</p> <p>[Craig A. Smith, Esq.; Interim HealthCare, Inc.]</p>	<p>Please see definition of "employer of record" in the rule.</p> <p>Please see this website for related definitions used by the State of Minnesota: www.dhs.state.mn.us/main/idcplg</p> <p>Also, please see ODA's response to comments #195 and #210.</p>
214	<p>PARAGRAPH (E)(2) (ON STATE EMPLOYMENT): "As the consumer and case manager will have behavioral control (per IRS standards) how will the IRS test of financial control be determined as the state will be making the payment for services? Will this also lead to a determination that the CDIP's are actually state employees?"</p> <p>[Jennifer Hall, RN, Administrator, Interim HealthCare, Inc. of Dayton]</p>	<p>Please see ODA's response to comments #195, #210, and #213.</p>
215	<p>PARAGRAPH (E)(2) (ON STATE EMPLOYMENT): "As the consumer and case manager will have behavioral control (per IRS standards) how will the IRS test of financial control be determined as the state will be making the payment for services? Will this also lead to a determination that the CDIP's are actually state employees?"</p> <p>[Carol Orto, RN, MPA, Branch Manager, Interim HealthCare, Inc. of Cincinnati]</p>	<p>Please see ODA's response to comments #195, #210, and #213.</p>

	THE PUBLIC'S COMMENTS	ODA'S RESPONSES
216	<p>PARAGRAPH (E)(2) (ON STATE EMPLOYMENT): "As the consumer and case manager will have behavioral control (per IRS standards) how will the IRS test of financial control be determined as the state will be making the payment for services?"</p> <p>[John Borns, Healthcare Recruiter; Maxim Healthcare Services; Moraine, OH]</p>	Please see ODA's response to comments #195, #210, and #213.
217	<p>PARAGRAPH (E)(2) (ON STATE EMPLOYMENT): "As the consumer and case manager will have behavioral control (per IRS standards) how will the IRS test of financial control be determined as the state will be making the payment for services?"</p> <p>[Robert Harris, Accounts Manager; Maxim Healthcare Services; Moraine, OH]</p>	Please see ODA's response to comments #195, #210, and #213.
218	<p>PARAGRAPH (D)(2) (ON LIABILITY INSURANCE): "How will the IRS test financial control with the state making these payments for the services."</p> <p>[Jeremy Markewicz; Maxim Healthcare Services]</p>	Please see ODA's response to comments #195, #210, and #213.
219	<p>PARAGRAPH (E)(2) (ON STATE EMPLOYMENT): "As there is a contract with the consumer and a provider agreement with the state, how will the IRS test of relationship to firm be determined?"</p> <p>[John Borns, Healthcare Recruiter; Maxim Healthcare Services; Moraine, OH]</p>	Please see ODA's response to comments #195, #210, and #213.
220	<p>PARAGRAPH (E)(2) (ON STATE EMPLOYMENT): "As there is a contract with the consumer and a provider agreement with the state, how will the IRS test of relationship to firm be determined?"</p> <p>[Robert Harris, Accounts Manager; Maxim Healthcare Services; Moraine, OH]</p>	Please see ODA's response to comments #195, #210, and #213.
221	<p>PARAGRAPH (E)(3)(a): "Will there be a training class for the healthcare employees interested in being a part of this? What type of requirements will they need to possess before applying? A big factor in using companies who focus on this line of business is experience and options."</p> <p>[Luis Rivera, Maxim Healthcare Services, Inc.]</p>	The qualifications to become a consumer-directed individual provider for the personal care service appear under paragraph (E)(3)(a) of rule 173-39-02.11 of the Administrative Code.

	THE PUBLIC'S COMMENTS	ODA'S RESPONSES
222	<p>PARAGRAPH (E)(3)(a): "Will there be a training class for the healthcare employees interested in being a part of this? What type of requirements will they need to possess before applying? A big factor in using companies who focus on this line of business is experience and options."</p> <p>[Nick Woronycz; Maxim Healthcare Services, Inc.; Westlake, OH]</p>	<p>Please see ODA's response to comment #222.</p>
223	<p>PARAGRAPH (E)(3)(a): "The qualifications to become an IP are much less than the qualifications required to work for certain agencies. This only cheats the consumer out of having the best care givers possible. There aren't as many screenings, no interview process, or thorough trainings to go through as an IP like there would be through an agency."</p> <p>[Steve Switzer, Maxim Healthcare Services, Inc.]</p>	<p>The training requirements for a consumer-directed individual provider for the personal care service appear under paragraph (E)(3)(a) of rule 173-39-02.11 of the Administrative Code. Additionally, rule 173-39-03 requires the consumer to interview an applicant before hiring him or her as his or her consumer-directed independent provider.</p>
224	<p>PARAGRAPH (E)(3)(a): "How will the IP get the required trainings?"</p> <p>[Holly Plotts, RN, BSN, Clinical Supervisor; Maxim Healthcare Services, Inc.; Canton Homehealth]</p>	<p>The training requirements for a consumer-directed individual provider for the personal care service appear under paragraph (E)(3)(a) of rule 173-39-02.11 of the Administrative Code. Additionally, rule 173-39-03 requires the consumer to interview an applicant before hiring him or her as his or her consumer-directed independent provider.</p>
225	<p>PARAGRAPH (E)(3)(a)(i)(b): "The proposed rule says that prospective independent providers can receive training from "an ODA-approved home health training program." We would like to see more detail of what would be included in such a program and who could offer it. We need to ensure that programs are available across the state and on-line where possible, so providers can receive training no matter where they live."</p> <p>[Sarah Riegel, Research Analyst, Long-Term Care, Service Employees International Union, District 1199]</p>	<p>ODA's approval of an approved training program mirrors the home health aide training program found in the Code of Federal Regulations Title 42, Volume 3, Part 484 Subpart C—Sec. 484.36(a). Any training program that applies for ODA approval and provides evidence that, at a minimum, it meets the requirements noted above will be approved. ODA has established a web site (http://aging.ohio.gov/resources/homehealthtraining/) that lists all approved training programs and provides detailed information for training programs that wish to apply for ODA-approval. Through the Board of Regents, training programs are available throughout the state at community colleges and at many adult vocational education centers. Financial aid is widely available for individuals who need financial assistance.</p>

	THE PUBLIC'S COMMENTS	ODA'S RESPONSES
226	<p>PARAGRAPH (E)(3)(a)(i)(b): "The draft states that providers may be certified by completing an ODA approved home health aide training program and that the provider is required to demonstrate successful completion of any training considered necessary by the provider or ODA designee. Who will determine the successful completion of that training? Also, who will ensure the successful completion of the annual inservices that are mandated? "</p> <p>[Michael B. Brubaker, Accounts Manager; Maxim Healthcare Services, Inc. of Youngstown]</p>	<p>As noted in ODA's response to comment #225, the standardized training program specified in CFR 42, Volume 3, Part 484 Subpart C—Sec. 484.36(a) specifies the required credentials of instructors and testers.</p> <p>PAs will monitor the successful completion of the required 12 hours of continuing education each year for CDIPs through the annual structural compliance review process required under rule 173-39-04 of the Administrative Code.</p>
227	<p>PARAGRAPH (E)(3)(a)(i)(b): "What are current ODA approved home health aide training programs and what are standards for these programs?"</p> <p>[Craig A. Smith, Esq.; Interim HealthCare, Inc.]</p>	Please see ODA's responses to comments #225 and #226.
228	<p>PARAGRAPH (E)(3)(a)(i)(b): "What are current ODA approved home health aide training programs and what are standards for these programs?"</p> <p>[Jennifer Hall, RN, Administrator, Interim HealthCare, Inc. of Dayton]</p>	Please see ODA's responses to comments #225 and #226.
229	<p>PARAGRAPH (E)(3)(a)(i)(b): "What are current ODA approved home health aide training programs and what are standards for these programs?"</p> <p>[John Borns, Healthcare Recruiter; Maxim Healthcare Services; Moraine, OH]</p>	Please see ODA's responses to comments #225 and #226.
230	<p>PARAGRAPH (E)(3)(a)(i)(b): "What are current ODA approved home health aide training programs and what are standards for these programs?"</p> <p>[Robert Harris, Accounts Manager; Maxim Healthcare Services; Moraine, OH]</p>	Please see ODA's responses to comments #225 and #226.
231	<p>PARAGRAPH (E)(3)(a)(i)(b): "What are current ODA approved home health aide training programs and what are standards for these programs?"</p> <p>[Carol Orto, RN, MPA, Branch Manager, Interim HealthCare, Inc. of Cincinnati]</p>	Please see ODA's responses to comments #225 and #226.

	THE PUBLIC'S COMMENTS	ODA'S RESPONSES
232	<p>PARAGRAPH (E)(3)(a)(i)(b): "What are current ODA approved home health aide training programs and what are the standards for these programs?"</p> <p>[Matthew T. Sotcan, Accounts Manager; Maxim Healthcare Services, Inc.]</p>	Please see ODA's responses to comments #225 and #226.
233	<p>PARAGRAPH (E)(3)(a)(i)(b): "What are the current ODA approved home health aide training programs and what are the current standards for these programs?"</p> <p>[Dan Wallace, Homecare Recruiter; Maxim Healthcare Services, Inc.]</p>	Please see ODA's responses to comments #225 and #226.
234	<p>PARAGRAPH (E)(3)(a)(i)(b): "I cannot find the ODA approved home health aide training program. What are the standards with this if they can be trained this way? Also, who determines if the training, or any outside training a provider has is "successful'?"</p> <p>[Jeremy Markewicz; Maxim Healthcare Services]</p>	Please see ODA's responses to comments #225 and #226.
235	<p>PARAGRAPH (E)(3)(a)(i)(b): "Are there any ODA approved Home Health aide training programs?"</p> <p>[Cathie Hoffmann, RN, PD Compliance and Support Services Manager; Homecare by Black Stone]</p>	Please see ODA's responses to comments #225 and #226.
236	<p>PARAGRAPH (E)(3)(a)(i)(c): "Allowing the provider to successfully complete an apprenticeship program in home health, health or a related subject approved by US DOL seems wide open. Providers will try to include any and everything with this undefined rule. If US DOL has a place to go to, give us the reference information."</p> <p>[Barb Rapp, Quality Assurance Coordinator, Area Office on Aging of Northwestern Ohio, Inc.]</p>	<p>ODA has revised the language and now requires a provider to complete training through an ODA-approved training program.</p> <p>Please see ODA's responses to comments #225 and #226.</p>
237	<p>PARAGRAPH (E)(3)(a)(i)(c): "Please define what an apprenticeship program in home health is?"</p> <p>[Kathleen M. Geise, RN, QA Manager; Catholic Social Services/PASSPORT Administrative Agency]</p>	Please see ODA's response to comment #236.

	THE PUBLIC'S COMMENTS	ODA'S RESPONSES
238	<p>PARAGRAPH (E)(3)(a)(i)(c): "What programs have an approved 'apprenticeship program in home health, health or a related subject'?"</p> <p>[Cathie Hoffmann, RN, PD Compliance and Support Services Manager; Homecare by Black Stone]</p>	Please see ODA's response to comment #236.
239	<p>PARAGRAPH (E)(3)(a)(i)(d): "Supervised experience for at least one year should be allowed as a qualification."</p> <p>[Barb Rapp, Quality Assurance Coordinator, Area Office on Aging of Northwestern Ohio, Inc.]</p>	ODA has decided to "raise the bar" for training of CDIPs. Our experience has shown us that one year of supervised experience is not adequate to ensure a quality worker.
240	<p>PARAGRAPH (E)(3)(a)(ii): "Who will determine the successful completion of that training?"</p> <p>[Craig A. Smith, Esq.; Interim HealthCare, Inc.]</p>	As noted in ODA's response to comment #225, successful completion of training is standardized. A score of 90% in each section of training is required for the trainee to successfully complete training.
241	<p>PARAGRAPH (E)(3)(a)(ii): "Who will determine the successful completion of that training?"</p> <p>[Jennifer Hall, RN, Administrator, Interim HealthCare, Inc. of Dayton]</p>	Please see ODA's response to comment #240.
242	<p>PARAGRAPH (E)(3)(a)(ii): "Who will determine the successful completion of that training?"</p> <p>[John Borns, Healthcare Recruiter; Maxim Healthcare Services; Moraine, OH]</p>	Please see ODA's response to comment #240.
243	<p>PARAGRAPH (E)(3)(a)(ii): "Who will determine the successful completion of that training?"</p> <p>[Robert Harris, Accounts Manager; Maxim Healthcare Services; Moraine, OH]</p>	Please see ODA's response to comment #240.
244	<p>PARAGRAPH (E)(3)(a)(ii): "Who will determine the successful completion of that training?"</p> <p>[Carol Orto, RN, MPA, Branch Manager, Interim HealthCare, Inc. of Cincinnati]</p>	Please see ODA's response to comment #240.
245	<p>PARAGRAPH (E)(3)(a)(ii): "Who will determine the successful completion of the training?"</p> <p>[Dan Wallace, Homecare Recruiter; Maxim Healthcare Services, Inc.]</p>	Please see ODA's response to comment #240.

	THE PUBLIC'S COMMENTS	ODA'S RESPONSES
246	<p>PARAGRAPH (E)(3)(a)(ii): "Also, the provider is required to demonstrate successful completion of any training considered necessary by the provider or ODA's designee. Who determines the successful completion of that training? Finally, the provider is required to demonstrate competency in specific areas, again, who will determine this competency?"</p> <p>[Matthew T. Sotcan, Accounts Manager; Maxim Healthcare Services, Inc.]</p>	<p>Please see ODA's response to comment #240.</p>
247	<p>PARAGRAPH (E)(3)(a)(ii): "Who will monitor E3a(ii)? It is not uncommon for a consumer's needs to change. Who will assure that the provider is qualified to care for the consumer with different needs?"</p> <p>[Kathleen M. Geise, RN, QA Manager; Catholic Social Services/PASSPORT Administrative Agency]</p>	<p>As with all consumer-directed services, the consumer or authorized representative of the consumer will be responsible for ensuring the provider is qualified to meet the needs of a consumer with changing needs. Of course, the case manager plays a significant role in ensuring the types and units of service authorized for each consumer are appropriate to the consumer's needs.</p> <p>Also, please see ODA's response to comment #240.</p>
248	<p>PARAGRAPH (E)(3)(a)(ii): "How will the provider's continuing education requirements be monitored and who will pay for this?"</p> <p>[Cathie Hoffmann, RN, PD Compliance and Support Services Manager; Homecare by Black Stone]</p>	<p>ODA's designee will monitor the successful completion of the required 12 hours of continuing education each year for CDIPs through the annual structural compliance review process (rule 173-39-04 of the OAC)</p>
249	<p>PARAGRAPH (E)(3)(a)(iii): "How is this going to be done and how is this going to be monitored?"</p> <p>[Kathleen M. Geise, RN, QA Manager; Catholic Social Services/PASSPORT Administrative Agency]</p>	<p>ODA's designees will ensure this through the pre-certification process and the annual structural compliance reviews.</p>
250	<p>PARAGRAPH (E)(3)(a)(iv): "The provider is required to demonstrate competency in specific areas, again, who will determine this competency?"</p> <p>[Craig A. Smith, Esq.; Interim HealthCare, Inc.]</p>	<p>As with all consumer-directed services, the consumer or authorized representative of the consumer will be responsible for ensuring the provider is qualified to meet the needs of a consumer with changing needs. Of course, the case manager plays a significant role in ensuring the types of services and units of service authorized for each consumer are appropriate to the consumer's needs.</p> <p>In addition, ODA's designee will ensure the provider meets the specific requirements in rule during the pre-certification process and the annual structural compliance reviews.</p>

	THE PUBLIC'S COMMENTS	ODA'S RESPONSES
251	<p>PARAGRAPH (E)(3)(a)(iv): "The provider is required to demonstrate competency in specific areas, again, who will determine this competency?"</p> <p>[Jennifer Hall, RN, Administrator, Interim HealthCare, Inc. of Dayton]</p>	Please see ODA's response to comment #250.
252	<p>PARAGRAPH (E)(3)(a)(iv): "The provider is required to demonstrate competency in specific areas, again, who will determine this competency?"</p> <p>[John Borns, Healthcare Recruiter; Maxim Healthcare Services; Moraine, OH]</p>	Please see ODA's response to comment #250.
253	<p>PARAGRAPH (E)(3)(a)(iv): "The provider is required to demonstrate competency in specific areas, again, who will determine this competency?"</p> <p>[Robert Harris, Accounts Manager; Maxim Healthcare Services; Moraine, OH]</p>	Please see ODA's response to comment #250.
254	<p>PARAGRAPH (E)(3)(a)(iv): "The provider is required to demonstrate competency in specific areas, again, who will determine this competency?"</p> <p>[Carol Orto, RN, MPA, Branch Manager, Interim HealthCare, Inc. of Cincinnati]</p>	Please see ODA's response to comment #250.
255	<p>PARAGRAPH (E)(3)(a)(iv): "The provider is required to demonstrate competency for specific areas, who will determine this competency?"</p> <p>[Dan Wallace, Homecare Recruiter; Maxim Healthcare Services, Inc.]</p>	Please see ODA's response to comment #250.
256	<p>PARAGRAPH (E)(3)(a)(iv): "The provider is required to demonstrate competency in specific areas, again, who will determine this competency and who will monitored the updates with competencies?"</p> <p>[Susan Crown RN, BSN; Regional Director of Clinical Services, Central Region D6, Maxim Healthcare Services, Inc.]</p>	Please see ODA's response to comment #250.

	THE PUBLIC'S COMMENTS	ODA'S RESPONSES
257	<p>PARAGRAPH (E)(3)(a)(iv): "How is this going to be done and how is this going to be monitored?"</p> <p>[Kathleen M. Geise, RN, QA Manager; Catholic Social Services/PASSPORT Administrative Agency]</p>	Please see ODA's response to comment #250.
258	<p>PARAGRAPH (E)(3)(b)(i): "this will never happen. To get on the nurse aide registry you must have been trained so even if the nurse aide certification expires you would still qualify under successfully completed an ODA approved training program and once apprenticed always apprenticed."</p> <p>[Barb Rapp, Quality Assurance Coordinator, Area Office on Aging of Northwestern Ohio, Inc.]</p>	ODA's designee will be responsible to ensure the qualifications of the provider during the pre-certification process and the annual structural compliance reviews. The consumer or the consumer's authorized representative will also have responsibility to ensure each CDIP obtains and maintains required continuing education.
259	<p>PARAGRAPH (E)(3)(b)(ii): "Who will determine if the training meets requirements? Will providers be responsible for the cost of this ongoing training?"</p> <p>[Craig A. Smith, Esq.; Interim HealthCare, Inc.]</p>	ODA's designee will have responsibility to ensure continuing education meets requirements during the annual structural compliance reviews. Providers will be responsible to pay for the cost of ongoing training.
260	<p>PARAGRAPH (E)(3)(b)(ii): "Who will determine if the training meets requirements? Will providers be responsible for the cost of this ongoing training?"</p> <p>[Jennifer Hall, RN, Administrator, Interim HealthCare, Inc. of Dayton]</p>	Please see ODA's response to comment #259.
261	<p>PARAGRAPH (E)(3)(b)(ii): "Who will determine if the training meets requirements? Will providers be responsible for the cost of this ongoing training?"</p> <p>[John Borns, Healthcare Recruiter; Maxim Healthcare Services; Moraine, OH]</p>	Please see ODA's response to comment #259.
262	<p>PARAGRAPH (E)(3)(b)(ii): "Who will determine if the training meets requirements? Will providers be responsible for the cost of this ongoing training?"</p> <p>[Robert Harris, Accounts Manager; Maxim Healthcare Services; Moraine, OH]</p>	Please see ODA's response to comment #259.

	THE PUBLIC'S COMMENTS	ODA'S RESPONSES
263	<p>PARAGRAPH (E)(3)(b)(ii): "Who will determine if the training meets requirements? Will providers be responsible for the cost of this ongoing training?"</p> <p>[Carol Orto, RN, MPA, Branch Manager, Interim HealthCare, Inc. of Cincinnati]</p>	Please see ODA's response to comment #259.
264	<p>PARAGRAPH (E)(3)(b)(ii): "Who will determine if the training meets requirements? Will providers be responsible for the cost of this ongoing training?"</p> <p>[Susan Crown RN, BSN; Regional Director of Clinical Services, Central Region D6, Maxim Healthcare Services, Inc.]</p>	Please see ODA's response to comment #259.
265	<p>PARAGRAPH (E)(3)(b)(ii): "Who will determine if the training meets requirements? Will providers be responsible for the cost of this ongoing training?"</p> <p>[Matthew T. Sotcan, Accounts Manager; Maxim Healthcare Services, Inc.]</p>	Please see ODA's response to comment #259.
266	<p>PARAGRAPH (E)(3)(b)(ii): "How is in service training for providers determined?"</p> <p>[Andrew Aust, Maxim Healthcare Services, Inc.]</p>	Please see ODA's response to comment #259.
267	<p>PARAGRAPH (E)(3)(b)(ii): "In Section (E)(3)(b)(ii) the provider is to complete in-service training and maintain specific documentation. It is important that the trainer sign verification of the trainer, not just require the "provider" to record the specific information related to the training."</p> <p>[Ohio Association of Area Agencies on Aging]</p>	We agree. The provider will be responsible to provide <u>evidence of compliance</u> with this requirement and the PAA will be responsible to review continuing education as part of the annual structural compliance review. Evidence of compliance is just that – clear evidence that the provider has successfully completed training, not only providing a description of the training.
268	<p>PARAGRAPH (E)(3)(b)(ii): "In Section (E)(3)(b)(ii) the provider is to complete in-service training and maintain specific documentation. I believe it important that the trainer sign verification of the trainer, not just require the "provider" to record the specific information related to the training."</p> <p>[Joyce Boling, RN, BS, Chief of Quality Management; Ohio District 5 Area Agency on Aging, Inc.]</p>	Please see ODA's response to comment #268.

	THE PUBLIC'S COMMENTS	ODA'S RESPONSES
269	<p>PARAGRAPH (E)(3)(b)(ii): <u>"do they need the minimum trainings on expectations of consumer, ethical standards, incident reporting and emergency procedures every year? Who will provide this training?"</u></p> <p>[Barb Rapp, Quality Assurance Coordinator, Area Office on Aging of Northwestern Ohio, Inc.]</p>	<p>We have revised this section of the rule to require successful completion of at least 12 hours of training on a topic related to consumers' activity plans and we no longer include required topics.</p> <p>It is ODA's intent to develop statewide opportunities for continuing education and training that will be available, accessible, affordable and applicable for direct service workers, including CDIPs.</p>
270	<p>PARAGRAPH (E)(3)(b)(ii): "The proposed rule requires 12 hours of continuing training each year , and requires the provider to list the trainer, their qualifications, materials used, etc. It is not clear, however, whether simply doing so means that the training will be accepted by ODA towards the 12-hour requirement. <u>Are there specific qualifications that have to be met by trainings in order for them to be accepted by ODA?</u> If so, these need to be clear to the provider before they undertake a training, so that they are not wasting their time."</p> <p>[Sarah Riegel, Research Analyst, Long-Term Care, Service Employees International Union, District 1199]</p>	<p>Please see ODA's response to comments #269.</p>
271	<p>PARAGRAPH (E)(3)(b)(ii): <u>"Twelve hours seems excessive. These individuals will have trouble finding training programs for continuing education (most available trainings are with agency providers who will not get excited about offering training to someone taking away their business) and the individual will not make enough money to pay for training. The rural areas will have an even harder time."</u></p> <p>[Barb Rapp, Quality Assurance Coordinator, Area Office on Aging of Northwestern Ohio, Inc.]</p>	<p>Please see ODA's response to comments #269.</p>
272	<p>PARAGRAPH (E)(3)(b)(ii): <u>"Where are the aides supposed to obtain the continuing education?"</u></p> <p>[Kathleen M. Geise, RN, QA Manager; Catholic Social Services/PASSPORT Administrative Agency]</p>	<p>Please see ODA's response to comments #269.</p>

	THE PUBLIC'S COMMENTS	ODA'S RESPONSES
273	<p>PARAGRAPH (E)(3)(b)(ii): "How will the provider's continuing education requirements be monitored and who will pay for this?"</p> <p>[Cathie Hoffmann, RN, PD Compliance and Support Services Manager; Homecare by Black Stone]</p>	<p>PAAs will have responsibility to ensure the provider meets the continuing education requirements during the annual structural compliance reviews. Providers will be responsible to pay for the cost of ongoing training.</p> <p>Please see ODA's response to comments #269.</p>
274	<p>PARAGRAPH (E)(3)(b)(ii)(a): "What does "the expectations of the consumer" mean and how does a provider receive training on this topic?"</p> <p>[ODJFS]</p>	<p>Please see ODA's response to comments #269.</p>
275	<p>PARAGRAPH (E)(3) (IN GENERAL): "Qualification of Providers: Through OAC, CFR's, COP's, and other policies and guidelines that must be followed, the employees that care for these individuals through agencies [such as] Maxim, must endure extensive training, orientation, competency evaluations, BCI background checks, and ongoing education and training to stay compliant with our standards. <u>Each worker is specifically trained by an RN on a case by case basis to ensure that they are meeting each consumers needs.</u> There are <u>monthly in-services</u> that are provided as well as weekly review of the in-home documentation to ensure that each employee is following the plan of care to a T. Once again, I bring up the concern of quality patient care. These measures that are taken by companies such as Maxim, are <u>set to a higher standard than CDIP would be held accountable to is passed.</u>"</p> <p>[Ryan M. Kennedy, Accounts Manager; Maxim Pediatric Services, Inc.; Boardman, OH]</p>	<p>Please see ODA's response to comments #269.</p>
276	<p>PARAGRAPH (E)(3) (IN GENERAL): "Provider qualifications and training (E)(3)(a) – the provider is required to be certified and prove successful completion of training/competency, as well as undergo annual training. Who will determine that these items are complete? As the provider of record, is it the responsibility of the consumer?"</p> <p>[David Tramontana, Black Stone Home Care Companies]</p>	<p>Please see ODA's response to comments #269.</p>

	THE PUBLIC'S COMMENTS	ODA'S RESPONSES
277	<p>PARAGRAPH (E)(4): "In order to minimize the possibility of fraud and abuse we recommend in rule <u>"173-39-02.11 Personal care service (E)(4) Service-verification: The provider shall complete any time sheets the consumer furnishes,"</u> that the word "any" is deleted and changed to "<u>the time sheets the consumer furnishes.</u>" As written this section of the rule indicates that it is possible that there may not be any time sheet as documentation to verify an actual service was provided.</p> <p>Compare this proposed CDIP requirement for service-verification to the more stringent rules that are in place in rule <u>173-39-02.11(D) Requirements for an agency provider</u>, and the agency requirements under the conditions of participation rule <u>173-39-02</u> of the Administrative Code. The following excerpts from these rules are evidence of higher standards required of the home health agency providers: a certified provider of personal care services must maintain evidence of services provided and compliance with supervisory requirements: maintains a consumer record documenting each episode of service delivery; offers to provide consumers and case managers with monthly reports of services delivered; and the provider must have a mechanism to verify the aide was present at the location and at the time the services were to be provided."</p> <p>[Beth Foster, Regulatory Specialist; Ohio Council for Home Care and Hospice]</p>	<p>ODA has revised paragraph (E)(4) of the rule to read, "The provider shall complete the time sheet the consumer furnishes."</p> <p>With regard to your comment regarding the difference in requirements for agency and CDIP record and supervisory requirements, we have not "lowered" the standards or created "less stringent" requirements. The requirements for agency providers to maintain evidence of compliance and evidence of services being provided are not relevant for a CDIP since the responsibility for approving the units of service and the supervision of those services are the responsibility of the CDIP's <u>employer</u> who is the consumer directing his or her own service delivery. The supervisory responsibilities of the consumer/employer are therefore not <u>provider requirements</u> and are not covered by the <u>provider certification rules</u>. Similarly, the requirement to have a system in place to verify the aide was present at the location and at the time the services are to be provided becomes a consumer/employer responsibility rather than a <u>provider certification rule</u> requirement.</p>
278	<p>PARAGRAPH (E)(4): "It would be beneficial for us to understand <u>how a CDIP structural review</u> will be accomplished when there may or may not be service delivery documentation? (please also refer to #3 above) There are no specific service delivery documentation requirements in rule "<u>173-39-02.11 Personal care service (E)(4) Service-verification (d) Records retention: The provider shall retain records required under this rule and provide access to those records for monitoring according to paragraph (D)(5) of rule 173-39-02 of the Administrative Code.</u>"</p> <p>[Beth Foster, Regulatory Specialist; Ohio Council for Home Care and Hospice]</p>	<p>There will be documentation of service delivery maintained by the consumer/employer in the CDIP service delivery model and that documentation will be in the form of time sheets that are reviewed and approved each week by the consumer/employer. The documentation will be maintained by the consumer/employer as well as by the FMS and will include the service delivery tasks, arrival and departure times, and total service delivery units of service.</p>

	THE PUBLIC'S COMMENTS	ODA'S RESPONSES
279	<p>PARAGRAPH (E)(4): "How do they turn in their hours of work??"</p> <p>[Vicki Dirr, Administrator; Hillebrand Home Health; Cincinnati, OH]</p>	<p>Paragraph (E)(4) of proposed amended rule 173-39-02.11 of the Administrative Code requires the provider to complete any time sheets the consumer furnishes.</p>
280	<p>PARAGRAPH (E)(4): "Who will assure consumers furnish time sheets and that time recorded is verified and validated?"</p> <p>[Craig A. Smith, Esq.; Interim HealthCare, Inc.]</p>	<p>Part of the FMS' role is to provide the consumers with timesheets for use with their employees. The FMS and the case manager will verify and validate reported time against the approved service authorization.</p>
281	<p>PARAGRAPH (E)(4): "Who will assure consumers furnish time sheets and that time recorded is verified and validated?"</p> <p>[Jennifer Hall, RN, Administrator, Interim HealthCare, Inc. of Dayton]</p>	<p>Please see ODA's response to comment #280.</p>
282	<p>PARAGRAPH (E)(4): "Who will assure consumers furnish time sheets and that time recorded is verified and validated?"</p> <p>[John Borns, Healthcare Recruiter; Maxim Healthcare Services; Moraine, OH]</p>	<p>Please see ODA's response to comment #280.</p>
283	<p>PARAGRAPH (E)(4): "Who will assure consumers furnish time sheets and that time recorded is verified and validated?"</p> <p>[Robert Harris, Accounts Manager; Maxim Healthcare Services; Moraine, OH]</p>	<p>Please see ODA's response to comment #280.</p>
284	<p>PARAGRAPH (E)(4): "Who will assure consumers furnish time sheets and that time recorded is verified and validated?"</p> <p>[Carol Orto, RN, MPA, Branch Manager, Interim HealthCare, Inc. of Cincinnati]</p>	<p>Please see ODA's response to comment #280.</p>
285	<p>PARAGRAPH (E)(4): "Who will assure consumers furnish time sheets and that time recorded is verified and validated?"</p> <p>[Matthew T. Sotcan, Accounts Manager; Maxim Healthcare Services, Inc.]</p>	<p>Please see ODA's response to comment #280.</p>
286	<p>PARAGRAPH (E)(4): "Who assures consumers furnish time sheets and that the time recorded is correct and verified?"</p> <p>[Dan Wallace, Homecare Recruiter; Maxim Healthcare Services, Inc.]</p>	<p>Please see ODA's response to comment #280.</p>

	THE PUBLIC'S COMMENTS	ODA'S RESPONSES
287	<p>PARAGRAPH (E)(4): "Who will assure consumers furnish time sheets and that time recorded is verified and validated?"</p> <p>[Susan Crawn RN, BSN; Regional Director of Clinical Services, Central Region D6, Maxim Healthcare Services, Inc.]</p>	Please see ODA's response to comment #280.
288	<p>PARAGRAPH (E)(4): "Agency providers are required to assure that services are being provided at the time/place authorized. How will this be monitored when a CDIP is the provider?"</p> <p>[Cathie Hoffmann, RN, PD Compliance and Support Services Manager; Homecare by Black Stone]</p>	Please see ODA's response to comment #280.
289	<p>PARAGRAPH (E)(4): "I am writing regarding the proposed regulation changes in creating the 'CDIP'. There are many concerns that need to be addressed and this is not something that should be approved without extreme scrutiny and many questions are still to be dealt with. Such as:</p> <p>"The Monitoring of Service Delivery (E)(4) requires providers to complete any time sheets the consumer furnishes. My question is, who will assure consumers furnish time sheets and that the time recorded is checked and validated?"</p> <p>"I urge you to further delve into the implications of this proposed rule and not hurry through without further studies into the outcome. Thank you.</p> <p>[Veronica Foley, Receptionist/Office Assistant; Interim HealthCare, Inc.]</p>	Please see ODA's response to comment #280.
290	<p>PARAGRAPH (E)(4): "Section (E)(4) indicates that the provider is to complete timesheets that the consumer furnishes. Will there be an expectation that the timesheet form used be as prescribed by the PAA so as to include adequate information to verify service when reviewing a sample of paid service units?"</p> <p>[Ohio Association of Area Agencies on Aging]</p>	<p>Yes. Part of the FMS role is to provide the consumers with timesheets for use with their employees. ODA will ensure that the necessary documentation is available for PAAs to conduct monitoring.</p> <p>The time sheet will include adequate information to verify the specific tasks furnished by the CDIP, provider arrival and departure times, and total units of service. The FMS will be responsible for payroll services on behalf of the consumer.</p>

	THE PUBLIC'S COMMENTS	ODA'S RESPONSES
291	<p>PARAGRAPH (E)(4): "Section (E)(4) indicates that the provider is to complete timesheets that the consumer furnishes. Will there be an expectation that the timesheet form used be as prescribed by the PAA so as to include adequate information to verify service when reviewing a sample of paid service units?"</p> <p>[Joyce Boling, RN, BS, Chief of Quality Management; Ohio District 5 Area Agency on Aging, Inc.]</p>	Please see ODA's response to comment #290.
292	<p>PARAGRAPH (E)(4): "The provider shall complete 'ANY' time sheet the consumer furnishes. This is a very vague statement. The documentation and verification of services provided needs to be very defined. I think the aide should be documenting the tasks and time just like a PCS worker does and obtaining the consumer signature for verification."</p> <p>[Kathleen M. Geise, RN, QA Manager; Catholic Social Services/PASSPORT Administrative Agency]</p>	Please See ODA's responses to comment #290
293	<p>GENERAL (rate): "Is the rate negotiated or will it be set by ODA?"</p> <p>[Dustin Namack, Account Manager; Maxim Healthcare Services, Inc.]</p>	The maximum statewide rate for personal care provided by a consumer-directed individual provider has been set by ODA using an established rate setting model.
294	<p>GENERAL: "This rule references "ODA (or the PAA)" in several locations; however this language is changed in paragraph (D) to read "ODA (or its designee)". Should all the terms in the rule change for consistency?"</p> <p>[ODJFS]</p>	ODA replaced "PAA" with "ODA's designee."

173-39-03 PROVIDER CERTIFICATION

	THE PUBLIC'S COMMENTS	ODA'S RESPONSES
295	<p>PARAGRAPH (A)(1)(a): "add submitted to each ODA designee (this would clarify who they need to apply with as some applications are sent to ODA or to the incorrect PAA)"</p> <p>[Kathleen M. Geise, RN, QA Manager; Catholic Social Services/PASSPORT Administrative Agency]</p>	<p>ODA now uses "ODA's designee" instead of "PAA."</p>
296	<p>PARAGRAPH (A)(1)(a)(ii): "Not sure if this needs re-worded as I had to re –read this to make sure it did not mean we had to complete the pre-certification visit with in 15 days; this just means that with in 15 days a written acknowledgement is sent and the pre-cert will be scheduled."</p> <p>[Kathleen M. Geise, RN, QA Manager; Catholic Social Services/PASSPORT Administrative Agency]</p>	<p>ODA may revisit many of the paragraphs related to providers other than consumer-directed individual providers in 2011.</p>
297	<p>PARAGRAPH (A)(3): "I do not see that employee files are mentioned as part of the review. Employee record review is a very important part of the review."</p> <p>[Kathleen M. Geise, RN, QA Manager; Catholic Social Services/PASSPORT Administrative Agency]</p>	<p>ODA may revisit many of the paragraphs related to providers other than consumer-directed individual providers in 2011.</p>
298	<p>PARAGRAPH (A)(3)(a): "Change to: An applicant must submit application materials to the appropriate ODA's designee."</p> <p>[Kathleen M. Geise, RN, QA Manager; Catholic Social Services/PASSPORT Administrative Agency]</p>	<p>ODA may revisit many of the paragraphs related to providers other than consumer-directed individual providers in 2011.</p>
299	<p>PARAGRAPH (A)(5)(b): "For expansion requests it is not required to do an on site pre-certification visit. It can be done as needed but is not required. The language here is not clear."</p> <p>[Kathleen M. Geise, RN, QA Manager; Catholic Social Services/PASSPORT Administrative Agency]</p>	<p>ODA may revisit many of the paragraphs related to providers other than consumer-directed individual providers in 2011.</p>

	THE PUBLIC'S COMMENTS	ODA'S RESPONSES
300	<p>PARAGRAPH (A)(6)(b): "should it be listed that this is for community-based long term care providers (that is for agency; non-agency and assisted living waiver providers)"</p> <p>[Kathleen M. Geise, RN, QA Manager; Catholic Social Services/PASSPORT Administrative Agency]</p>	<p>ODA may revisit many of the paragraphs related to providers other than consumer-directed individual providers in 2011.</p>
301	<p>PARAGRAPH (A)(12)(a): "(A) (12) and (A) (12) (a) is a repeat and the language PAA needs to be changed to ODA's designee."</p> <p>[Kathleen M. Geise, RN, QA Manager; Catholic Social Services/PASSPORT Administrative Agency]</p>	<p>ODA may revisit many of the paragraphs related to providers other than consumer-directed individual providers in 2011.</p>
302	<p>PARAGRAPH (A)(12)(c)(ii): "This is a very good addition. Thanks!!"</p> <p>[Kathleen M. Geise, RN, QA Manager; Catholic Social Services/PASSPORT Administrative Agency]</p>	<p>This is part of the current rule.</p>
303	<p>PARAGRAPHS (B)(1), (B)(2), and (B)(3): "Who makes sure the IP has the necessary requirements to be hired, TB skin tests, Background checks, CPR?"</p> <p>[Holly Plotts, RN, BSN, Clinical Supervisor; Maxim Healthcare Services, Inc.; Canton Homehealth]</p>	<p>The individual responsible for reviewing and verifying the application materials is the consumer/employer and ODA's designee and, finally, ODA. TB immunization and CPR training are not requirements for personal care workers.</p> <p>Please also see ODA's response to comments #74 and #332.</p>
304	<p>PARAGRAPHS (B)(1), (B)(2), and (B)(3): "How will we ensure that workers are up to date with requirements such as TB skin testing, Background checks, competency in all areas of healthcare, etc?"</p> <p>[Tom Walland, Senior Healthcare Recruiter; Maxim Healthcare Services, Inc.; Painesville, OH]</p>	<p>Please also see ODA's response to comments #303, #74 and #332.</p>
305	<p>PARAGRAPH (B)(1): "The process currently outlined would require the consumer to give the application materials to the applicant. It would be much more efficient if the applicant was also permitted to access the materials from the PAA or a website. The applicant would then present the materials to the consumer."</p> <p>[Sarah Riegel, Research Analyst, Long-Term Care, Service Employees International Union, District 1199]</p>	<p>ODA is currently considering making all application materials available on our website.</p>

	THE PUBLIC'S COMMENTS	ODA'S RESPONSES
306	<p>PARAGRAPH (B)(1): "C-DIP application process- the application is with the consumer and the consumer furnishes the application. What is [the PAA's] role then?"</p> <p>[Kathleen M. Geise, RN, QA Manager; Catholic Social Services/PASSPORT Administrative Agency]</p>	<p>The PAA's role is much the same as it is for other provider types. The major difference is that a consumer-directed individual provider applicant begins the process with the consumer who will employ the provider.</p>
307	<p>PARAGRAPH (B)(2)(a): "In section (B)(2) and (B)(2)(a) the following words are repeated, "The applicant shall submit the following application materials to the consumer".</p> <p>[Ohio Association of Area Agencies on Aging]</p>	<p>ODA removed the duplicate language from the rule.</p>
308	<p>PARAGRAPH (B)(2)(a): "In section (B)(2) and (B)(2)(a) the following words are repeated, 'The applicant shall submit the following application materials to the consumer'."</p> <p>[Joyce Boling, RN, BS, Chief of Quality Management; Ohio District 5 Area Agency on Aging, Inc.]</p>	<p>Please see ODA's response to comment #307.</p>
309	<p>PARAGRAPH (B)(2)(d): "We are concerned about the privacy rights of the individual provider and believe that any document given to the consumer by the individual provider should have the Social Security number omitted."</p> <p>[Sarah Riegel, Research Analyst, Long-Term Care, Service Employees International Union, District 1199]</p>	<p>The consumer, as the employer, must obtain the provider's Social Security number to fulfill the responsibilities as the employer of record. Also, this is a standard element of the Medicaid provider agreement application.</p>
310	<p>PARAGRAPH (B)(2)(d)(c): "This rule includes the 'Alien identification card' reference as in OAC 173-39-02 comment above."</p> <p>[Ohio Association of Area Agencies on Aging]</p>	<p>ODA now uses "United States of America permanent residence card," not "Alien identification card."</p>
311	<p>PARAGRAPH (B)(2)(d)(c): "This rule includes the 'Alien identification card' reference as in OAC 173-39-02 comment above."</p> <p>[Joyce Boling, RN, BS, Chief of Quality Management; Ohio District 5 Area Agency on Aging, Inc.]</p>	<p>Please see ODA's response to comment #310.</p>

	THE PUBLIC'S COMMENTS	ODA'S RESPONSES
312	<p>PARAGRAPH (B)(2)(d)(c): "To ensure consumer safety and prevent consumer confusion, we recommend that rule 173-39-03 Provider certification (B)(2)(d)(c) Alien identification card be deleted and replaced with <u>United States of America permanent residence card</u> to be consistent with rule 173-39-02 Conditions of participation (D)(4)(d)(iii)."</p> <p>[Beth Foster, Regulatory Specialist; Ohio Council for Home Care and Hospice]</p>	Please see ODA's response to comment #310.
313	<p>PARAGRAPH (B)(3); "It should be clarified that if the desired provider has previously been certified through this process, the consumer should be able to notify the PAA that the consumer wishes to hire the provider and that provider should be able to begin providing services immediately."</p> <p>[Sarah Riegel, Research Analyst, Long-Term Care, Service Employees International Union, District 1199]</p>	Please see ODA's response to comment #332.
314	<p>PARAGRAPH (B)(3): "Consumer is responsible for collecting application materials, but no mention of whether consumer is trained for verification."</p> <p>[David Tramontana, Black Stone Home Care Companies]</p>	Please see ODA's response to comment #187.
315	<p>PARAGRAPH (B)(3)(a): "Are we correct that in section (B)(3)(a) the interview that may occur would be a second interview of the applicant?"</p> <p>[Ohio Association of Area Agencies on Aging]</p>	If the consumer chooses to interview the applicant before and after receiving the application materials, this would, indeed the interview is a second interview.
316	<p>PARAGRAPH (B)(3)(a): "Are we correct that in section (B)(3)(a) the interview that may occur would be a second interview of the applicant?"</p> <p>[Joyce Boling, RN, BS, Chief of Quality Management; Ohio District 5 Area Agency on Aging, Inc.]</p>	Please see ODA's response to comment #315.

	THE PUBLIC'S COMMENTS	ODA'S RESPONSES
317	<p>PARAGRAPH (B)(3)(a): "This paragraph indicates that the consumer "shall" interview the applicant; however in (B)(3)(a) there is language stating that the consumer "may" interview the application after they have submitted a provider application. What is the purpose of this interview? In addition, this language ((B)(1)) appears inconsistent with the conditions of participation in rule 173-39-02(D)(1)(a), which states that, at the consumer's request, the provider shall participate in an interview. Is the interview optional or mandatory?"</p> <p>[ODJFS]</p>	Please see ODA's response to comment #315.
318	<p>PARAGRAPH (B)(3)(a): "Consumer interview (B): consumer is initially required to interview (1), but later states that the consumer may interview (3). Requirements are unclear."</p> <p>[David Tramontana, Black Stone Home Care Companies]</p>	Please see ODA's response to comment #315.
319	<p>PARAGRAPH (B)(3)(a): "Consumer Interview of Provider: (B)(1) Requires the consumer to interview the provider and describe the certification process and present application materials. (B)(3) indicates that the consumer "may" interview the applicant after application materials are submitted by the provider. Is the requirement that the consumer interview the provider and explain the certification and provider enrollment process? Or is there a second, but not required, interview in the process?"</p> <p>[Craig A. Smith, Esq.; Interim HealthCare, Inc.]</p>	Please see ODA's response to comment #315.
320	<p>PARAGRAPH (B)(3)(a): "Consumer Interview of Provider: (B)(1) Requires the consumer to interview the provider and describe the certification process and present application materials. (B)(3) indicates that the consumer "may" interview the applicant after application materials are submitted by the provider. Is the requirement that the consumer interview the provider and explain the certification and provider enrollment process? Or is there a second, but not required, interview in the process?"</p> <p>[Jennifer Hall, RN, Administrator, Interim HealthCare, Inc. of Dayton]</p>	Please see ODA's response to comment #315.

	THE PUBLIC'S COMMENTS	ODA'S RESPONSES
321	<p>PARAGRAPH (B)(3)(a): "Consumer Interview of Provider: (B)(1) Requires the consumer to interview the provider and describe the certification process and present application materials. (B)(3) indicates that the consumer "may" interview the applicant after application materials are submitted by the provider. Is the requirement that the consumer interview the provider and explain the certification and provider enrollment process? Or is there a second, but not required, interview in the process?"</p> <p>[John Borns, Healthcare Recruiter; Maxim Healthcare Services; Moraine, OH]</p>	Please see ODA's response to comment #315.
322	<p>PARAGRAPH (B)(3)(a): "Consumer Interview of Provider: (B)(1) Requires the consumer to interview the provider and describe the certification process and present application materials. (B)(3) indicates that the consumer "may" interview the applicant after application materials are submitted by the provider. Is the requirement that the consumer interview the provider and explain the certification and provider enrollment process? Or is there a second, but not required, interview in the process?"</p> <p>[Robert Harris, Accounts Manager; Maxim Healthcare Services; Moraine, OH]</p>	Please see ODA's response to comment #315.
323	<p>PARAGRAPH (B)(3)(a): "There seems to be a contradiction in this section. In one part it states that the consumer is required to interview the provider, but 2 sections later it says they "may"? Shouldn't this be a requirement?"</p> <p>[Jeremy Markewicz; Maxim Healthcare Services]</p>	Please see ODA's response to comment #315.
324	<p>PARAGRAPH (B)(3)(b): "Is the consumer or the CDIP responsible for the cost of the criminal background check?"</p> <p>[Craig A. Smith, Esq.; Interim HealthCare, Inc.]</p>	Please see ODA's response to comment #74.
325	<p>PARAGRAPH (B)(3)(b): "Is the consumer or the CDIP responsible for the cost of the criminal background check?"</p> <p>[Jennifer Hall, RN, Administrator, Interim HealthCare, Inc. of Dayton]</p>	Please see ODA's response to comment #74.

	THE PUBLIC'S COMMENTS	ODA'S RESPONSES
326	<p>PARAGRAPH (B)(3)(b): "Is the provider responsible for the cost of the criminal background check?"</p> <p>[John Borns, Healthcare Recruiter; Maxim Healthcare Services; Moraine, OH]</p>	Please see ODA's response to comment #74.
327	<p>PARAGRAPH (B)(3)(b): "Is the provider responsible for the cost of the criminal background check?"</p> <p>[Robert Harris, Accounts Manager; Maxim Healthcare Services; Moraine, OH]</p>	Please see ODA's response to comment #74.
328	<p>PARAGRAPH (B)(3)(b): "Who pays for the background check and will the consumer be given a copy of that?"</p> <p>[Jeremy Markewicz; Maxim Healthcare Services]</p>	Please see ODA's response to comment #74.
329	<p>PARAGRAPH (B)(3)(b): "Who conducts background checks?"</p> <p>[Vicki Dirr, Administrator; Hillebrand Home Health; Cincinnati, OH]</p>	<p>Paragraphs (B)(3)(b) and (B)(3)(c) of rule 173-39-03 of the Administrative Code will require the consumer to request the criminal records check and to review it as well.</p> <p>Also, please see ODA's response to comment #74.</p>
330	<p>PARAGRAPH (B)(3)(b): "Will the CDIP be required to obtain a new background check for each consumer they serve? Who will pay for these? Will background checks be required annually or at least every 2 years?"</p> <p>[Cathie Hoffmann, RN, PD Compliance and Support Services Manager; Homecare by Black Stone]</p>	<p>Yes, the consumer is required to request a separate criminal records report from the Bureau of Criminal Information and Investigation (BCII) for each applicant under final consideration for employment. If one applicant is under final consideration for employment for more than one consumer, state law requires each employer to request a separate criminal records report. (Criminal records reports are not public information that a consumer may share with other consumers.)</p> <p>State law requires the employer to request a criminal records check only on applicants under final consideration for employment, not on current employees. Therefore, ODA may not make a rule that requires criminal records checks on current employees unless the Ohio General Assembly enacts new legislation permitting us to do so.</p> <p>Also, please see ODA's response to comment #74.</p>

	THE PUBLIC'S COMMENTS	ODA'S RESPONSES
331	<p>PARAGRAPH (B)(3)(b): "This paragraph requires that the IP have a background check performed. Rule 173-39-01 states that the employer will pay for the background check. Will the consumer pay for the background check or will the provider be required to pay for the background check?"</p> <p>[ODJFS]</p>	<p>Please see ODA's response to comment #74.</p>
332	<p>PARAGRAPH (B)(3)(c): "states the consumer 'with the assistance of the case manager' will review criminal records reports. We have concerns with this. Most of our case managers are not knowledgeable or trained in how to interpret criminal records reports. This would require extensive training for the case managers to manage this process. It seems more appropriate that provider relations staff would assist consumers in interpreting these reports as this is something that they deal with for other provider types."</p> <p>[Ohio Association of Area Agencies on Aging]</p>	<p>ODA expects the case manager to assist the consumer/employer (in the consumer's home) to complete responsibilities regarding the criminal records check requirements.</p> <p>During the implementation state, ODA will provide training to PAAs on this topic.</p>
333	<p>PARAGRAPH (B)(3)(c): "In section (B)(3)(c) the Case Manager is to assist the consumer in reviewing the criminal records check of the applicant. Due to the complexity of the Criminal Records Check rule, and in view of the fact that PAA QI/QA staff is already reviewing reports and providing assistance to other providers on this requirement, it seems more appropriate to involve that staff versus the potential for all Case Managers needing to be familiar with the requirement."</p> <p>[Joyce Boling, RN, BS, Chief of Quality Management; Ohio District 5 Area Agency on Aging, Inc.]</p>	<p>Please see ODA's response to comment #332.</p>
334	<p>PARAGRAPH (B)(3)(c) "how is the consumer going to know if the CBC report meets the requirements? Will the CBC results letters be sent straight to the consumer, what if the C-DIP has more than one consumer, do they send a CBC letter to each consumer? Who is responsible for monitoring this?"</p> <p>[Kathleen M. Geise, RN, QA Manager; Catholic Social Services/PASSPORT Administrative Agency]</p>	<p>Please see ODA's response to comment #332.</p>

	THE PUBLIC'S COMMENTS	ODA'S RESPONSES
335	<p>PARAGRAPH (B)(4): "Pre-certification review-how can compliance be determined if the application and interview are completed by the consumer?"</p> <p>[Kathleen M. Geise, RN, QA Manager; Catholic Social Services/PASSPORT Administrative Agency]</p>	<p>Compliance is determined by reviewing application materials submitted by the consumer.</p>
336	<p>PARAGRAPHS (B)(4)(a) and (B)(5): "The time frames listed here are less than for the other providers, why is it not the same time frames?"</p> <p>[Kathleen M. Geise, RN, QA Manager; Catholic Social Services/PASSPORT Administrative Agency]</p>	<p>The initial interactions with the applicant take place with the consumer. The PAA's role regarding a consumer-directed individual provider begins at the second step in the process. The different time frames reflect the different roles the PAA plays in the certification process with an agency provider vs., a consumer-directed individual provider.</p>
337	<p>PARAGRAPH (B)(5)(b): "We believe that the review and notification process should not take more than 20 days total. If ODA takes 20 days to notify the PAA of the decision, there is no reason that the PAA needs an additional 10 days to notify the consumer and the applicant. ODA can notify the PAA, the consumer, and the applicant within 20 days."</p> <p>[Sarah Riegel, Research Analyst, Long-Term Care, Service Employees International Union, District 1199]</p>	<p>The timelines established in this rule are the maximum times allowable and reflect the current certification process for all provider types.</p>
338	<p>PARAGRAPH (B)(5)(d): "What are the necessary forms?"</p> <p>[Kathleen M. Geise, RN, QA Manager; Catholic Social Services/PASSPORT Administrative Agency]</p>	<p>"Necessary forms" are the standard forms (e.g., IRS forms) that an employer completes when hiring a new employee. The financial management service will assist the consumer to complete the hiring process, including supplying any necessary hiring forms</p>
339	<p>PARAGRAPH (B)(5)(e): "In the last line of (B)(5)(e) the word 'its' should be replaced with 'his or her'."</p> <p>[Ohio Association of Area Agencies on Aging]</p>	<p>ODA now uses "his or her," not "its."</p>
340	<p>PARAGRAPH (B)(5)(e): "In the last line of (B)(5)(e) the word 'its' should be replaced with 'his or her'."</p> <p>[Joyce Boling, RN, BS, Chief of Quality Management; Ohio District 5 Area Agency on Aging, Inc.]</p>	<p>Please see ODA's response to comment #339.</p>

	THE PUBLIC'S COMMENTS	ODA'S RESPONSES
341	<p>PARAGRAPH (B)(6)(c): "In section (B)(6)(c) the rule referenced in the first line should be 173-39-02.2"</p> <p>[Ohio Association of Area Agencies on Aging]</p>	<p>ODA now uses "173-39-02.2," not "173-39-02."</p>
342	<p>PARAGRAPH (B)(6)(c): "In section (B)(6)(c) the rule referenced in the first line should be 173-39-02.2"</p> <p>[Joyce Boling, RN, BS, Chief of Quality Management; Ohio District 5 Area Agency on Aging, Inc.]</p>	<p>Please see ODA's response to comment #341.</p>
343	<p>PARAGRAPH (B)(7): "If an individual provider wants to provide services to more than one consumer ODA must approve it. Can't the PAA make this determination? If ODA must be involved what will the process be?"</p> <p>[Ohio Association of Area Agencies on Aging]</p>	<p>ODA's desingee will, in fact, continue to be responsible for authorizing the provider for each consumer.</p> <p>To avoid confusion, ODA has removed paragraph (B)(7) from the proposed new rule.</p>
344	<p>PARAGRAPH (B)(7): "Are consumers required to interview any already certified CDIP if they want to use that provider? Will each consumer have an opportunity to review the most recent criminal background check for existing providers? Will a new background check be required for each expansion of service?"</p> <p>[Craig A. Smith, Esq.; Interim HealthCare, Inc.]</p>	<p>Please see ODA's response to comment #343.</p>
345	<p>PARAGRAPH (B)(7): "Are consumers required to interview any already certified CDIP if they want to use that provider? Will each consumer have an opportunity to review the most recent criminal background check for existing providers? Will a new background check be required for each expansion of service?"</p> <p>[Jennifer Hall, RN, Administrator, Interim HealthCare, Inc. of Dayton]</p>	<p>Please see ODA's response to comment #343.</p>

	THE PUBLIC'S COMMENTS	ODA'S RESPONSES
346	<p>PARAGRAPH (B)(7): "Are consumers required to interview any already certified CDIP if they want to use that provider? Will each consumer have an opportunity to review the most recent criminal background check for existing providers? Will a new background check be required for each expansion of service?"</p> <p>[John Borns, Healthcare Recruiter; Maxim Healthcare Services; Moraine, OH]</p>	Please see ODA's response to comment #343.
347	<p>PARAGRAPH (B)(7): "Are consumers required to interview any already certified CDIP if they want to use that provider? Will each consumer have an opportunity to review the most recent criminal background check for existing providers? Will a new background check be required for each expansion of service?"</p> <p>[Robert Harris, Accounts Manager; Maxim Healthcare Services; Moraine, OH]</p>	Please see ODA's response to comment #343.
348	<p>PARAGRAPH (B)(7): "Does ODA plan to expand services to include a home care attendant provision as does ODJFS? When would that happen?"</p> <p>[Gwen Toney, Vice-President Government Affairs; Ohio Home, Hospice & Palliative Care Organization]</p>	<p>ODA does not have plans to adopt home care attendant for PASSPORT consumers as defined in ODJFS rules for the Ohio Home Care program.</p> <p>Also, please see ODA's response to comment #343.</p>
349	<p>PARAGRAPH (B)(7): "If an individual provider wants to provide services to more than one consumer ODA must approve it. Can't the case manager make this determination? If ODA must be involved what will the process be?"</p> <p>[Barb Rapp, Quality Assurance Coordinator, Area Office on Aging of Northwestern Ohio, Inc.]</p>	Please see ODA's responses to comment #343.
350	<p>PARAGRAPH (B)(7): "So for expansions it is a request to the ODA's designee but the application is with the consumer and an expansion will be determined by ODA? I am confused on what the ODA designee role is in the application and for the expansion. Also is the time frame going to be listed for expansions?"</p> <p>[Kathleen M. Geise, RN, QA Manager; Catholic Social Services/PASSPORT Administrative Agency]</p>	Please see ODA's responses to comment #343.

	THE PUBLIC'S COMMENTS	ODA'S RESPONSES
351	<p>PARAGRAPH (B)(7): "The proposed rule requires providers to submit a request if they wish to provide services to additional consumers. While we agree that there is a need to ensure that each consumer receives high-quality care, we are concerned that this section of the rule could be applied in ways that would prevent providers from working enough hours to earn a living wage, which in turn will limit the workforce in PASSPORT. The rule does not make clear the standards that will be used to evaluate the provider's ability to provide services to each consumer. Providers should be able to work for multiple clients up to 50 hours per week without any additional approval. This would ensure that providers can expand services but that there would be a consistent, fairly applied limit."</p> <p>[Sarah Riegel, Research Analyst, Long-Term Care, Service Employees International Union, District 1199]</p>	<p>Please see response to comment #343.</p> <p>ODA has no intention of limiting the number of hours providers work as long as those hours are not more than 40 hours per week.</p>
352	<p>GENERAL (ON STAFFING): "In general, how will the certification and review process be accomplished with current PAA staffing?"</p> <p>[Ohio Association of Area Agencies on Aging]</p>	<p>The amount of time required for a PAA to recommend certification of a consumer-directed individual provider is significantly less than for an agency provider, assisted living provider or non-agency provider. It will be the specific responsibility of each PAA to allocate resources for certification and quality assurance activities as part of their administrative costs.</p> <p>ODA is in the process of evaluating the need for additional funds (staff?) to manage these activities</p> <p>Please also see ODA's response to comment #396.</p>
353	<p>GENERAL (ON STAFFING): "In general, how will this be accomplished with current staffing?"</p> <p>[Barb Rapp, Quality Assurance Coordinator, Area Office on Aging of Northwestern Ohio, Inc.]</p>	<p>Please see ODA's response to comments #352 and #396.</p>

	THE PUBLIC'S COMMENTS	ODA'S RESPONSES
354	<p>GENERAL: "We have some concerns about the length of time involved in provider certification. It appears that the process will take at least forty business days, plus any time involved in receiving and reviewing the criminal background check. What will happen with the consumer in the time while they are waiting for their provider to be certified? Anything ODA could do to expedite this process would be to the benefit of both consumers and providers."</p> <p>[Sarah Riegel, Research Analyst, Long-Term Care, Service Employees International Union, District 1199]</p>	<p>The amount of time specified in the provider certification rule outlines the maximum amount of time for each step in the process to be completed. The PAAs and ODA are responsible for provider certification for all provider types and we strive to complete the process in a timely manner. When a situation arises that requires an expedited process we do our best to complete the certification process in a short period of time.</p>
355	<p>GENERAL:</p> <ul style="list-style-type: none"> - "Consumer safety issues/taxpayer - "Overall, this process puts a lot of burden on the consumer, who is, by definition, frail, elderly and lower-income. This poses a great potential for fraud and abuse in the system, with few safety guards to protect the consumer and the taxpayers, who are paying for this service. <p>[David Tramontana, Black Stone Home Care Companies]</p>	<p>An older person may be in frail health and be deemed low-income but those issues do not, in and of themselves, have a negative impact on a person's ability to direct their own care. An older person who is unable to direct his or her own care is able to participate in a consumer-directed service delivery model through the involvement of an authorized representative. The ability to direct one's own care is not viewed as a burden by consumers who opt for this service delivery model, but rather as an opportunity to take an active and meaningful role in their own care.</p> <p>As with all service delivery models embraced by the Ohio Department of Aging, there are a number of safeguards built in to the Medicaid waiver program design. Taxpayers and consumers alike will benefit from the active involvement of consumers in directing their own care.</p> <p>Please see ODA's general statement at the beginning of this document and response to comments #175 and #195.</p>
356	<p>GENERAL: "How will IPs beneficiaries find IPs. Will they need to be someone they know. Will ODA post a listing of names of IPs for the consumer to select? Will the IPs be permitted to contact beneficiaries directly: We would like to see language that more specifically identifies this process."</p> <p>[Gwen Toney, Vice-President Government Affairs; Ohio Home, Hospice & Palliative Care Organization]</p>	<p>ODA does not plan to develop a registry of consumer-directed individual providers. While there is no requirement that a prospective CDIP have an established relationship with a consumer for whom they provide services, we anticipate this will often be the case.</p> <p>Consumers who need assistance in choosing a CDIP will be aided by the PAA's case manager through informed consumer choice as they always have been in selecting a provider when they do not have a specific provider in mind.</p>

	THE PUBLIC'S COMMENTS	ODA'S RESPONSES
357	<p>GENERAL: "Will ODA have a list of excluded individuals on their website?"</p> <p>[Gwen Toney, Vice-President Government Affairs; Ohio Home, Hospice & Palliative Care Organization]</p>	<p>ODA and ODJFS have always reviewed applicants for provider certification against a federal exclusion list and with an Ohio excluded provider list. That will continue to be the practice.</p>
358	<p>GENERAL: "The patient should be educated to know what services are within a personal care attendant scope of practice so the patient does not allow that individual to perform skilled services that otherwise would be performed by a nurse."</p> <p>[Gwen Toney, Vice-President Government Affairs; Ohio Home, Hospice & Palliative Care Organization]</p>	<p>ODA is not proposing to change the PASSPORT program's definition for "personal care service." ODA is proposing to add consumer direction as an additional service delivery method of for the already-defined personal care service.</p> <p>Rule 173-39-02.11 of the Administrative Code clearly defines allowable personal care tasks. As with all provider certification rules, it is incumbent on the certified provider to perform only those tasks that are allowable in a specific service and to operate within his or her scope of practice.</p>

173-39-04 PROVIDER STRUCTURAL COMPLIANCE REVIEW

	THE PUBLIC'S COMMENTS	ODA'S RESPONSES
359	<p>PARAGRAPH (B): "This rule does not treat the consumer as the employer of record. If the "employer" is required to keep all documents and AAA staff are required to review them, why would it also be necessary to require record keeping by an individual provider and for the AAA to review these same documents. Such a process would be duplicative and not cost effective."</p> <p>[Pamela Wilson, Senior Vice-President, Long-Term Care; Area Office on Aging of Northwestern Ohio, Inc.]</p>	<p>We received a number of comments related to the structural compliance review requirements for CDIPs. We are working on a revision for these requirements.</p>
360	<p>PARAGRAPH (B)(1)(a): "are the C-DIP providers subject to an ODA review? If yes it needs to be listed."</p> <p>[Kathleen M. Geise, RN, QA Manager; Catholic Social Services/PASSPORT Administrative Agency]</p>	<p>Please see ODA's response to comment #359</p>
361	<p>PARAGRAPH (B)(1)(c): "It does not seem appropriate to refer to 'an administrative office' in line two of section (B)(1)(c) because a CDIP would not have an administrative office."</p> <p>[Joyce Boling, RN, BS, Chief of Quality Management; Ohio District 5 Area Agency on Aging, Inc.]</p>	<p>Please see ODA's response to comment #359</p>
362	<p>PARAGRAPH (B)(1)(c): "Please clarify how an IP would have an administrative office if they are a single individual. Does "including outside of Ohio" mean that the provider leaves in another state?"</p> <p>[Gwen Toney, Vice-President Government Affairs; Ohio Home, Hospice & Palliative Care Organization]</p>	<p>Please see ODA's response to comment #359</p>
363	<p>PARAGRAPH (B)(3)(a): "The components listed in (B)(5) are reviewed by care managers during the initial 6 months and also at the annual redetermination and updates from the individual providers are requested annually. The rule could be improved by tying the review process to the consumer's annual redetermination."</p> <p>[Pamela Wilson, Senior Vice-President, Long-Term Care; Area Office on Aging of Northwestern Ohio, Inc.]</p>	<p>Please see ODA's response to comment #359</p>

	THE PUBLIC'S COMMENTS	ODA'S RESPONSES
364	<p>PARAGRAPH (B)(3)(a): "This is a new program. Annually is not sufficient to give the homemaker/personal care IP sufficient oversight of the new program. Recommend that the first visit with the IP and the PAA case manager, then quarterly for the first year. The second year semiannually and the third year annual structural reviews would be appropriate.</p> <p>"The rest of the rule on sample size, review of claims against units on a quarterly basis would be appropriate to give the recipient and the new IP the best chance of success so any issues are caught early.</p> <p>"We request that ODA compile quarterly statistics on NODs, Compliance Reviews, Referrals to AG etc broken down by agency, non-agency, and IPs that will be available to the public and all providers."</p> <p>[Gwen Toney, Vice-President Government Affairs; Ohio Home, Hospice & Palliative Care Organization]</p>	<p>This is still PASSPORT, not a new program. ODA is adding an additional service delivery method for the personal care service.</p> <p>Also, please see ODA's response to comment #359.</p>
365	<p>PARAGRAPH (B)(3)(a): "To ensure quality of care and minimize the potential for fraud, we recommend that for the first year of service the CDIP is subject to a structural compliance review at a minimum frequency of at least every six months and then annually thereafter. <u>"173-39-04 Provider structural compliance review (B) Consumer-directed individual providers: Each certified consumer-directed individual provider is subject to a regular provider structural compliance review to ascertain if it complies with Chapter 173-39 of the Administrative Code. (3) Minimum frequency: (a) during the first two years of service, ODA's designee shall conduct the review of each provider at least annually every six months."</u></p> <p>[Beth Foster, Regulatory Specialist; Ohio Council for Home Care and Hospice]</p>	<p>Please see ODA's response to comment #359.</p>

	THE PUBLIC'S COMMENTS	ODA'S RESPONSES
366	<p>PARAGRAPH (B)(3)(a): "Another concern I see in these rules are the Structural Compliance Review. As an agency provider we are subject to annual review. For these new Independent Providers I feel that there should be a structured review at least every 6 months for at least the first 2 years to minimize fraud. We need to listen to our seniors as they voice the need for trustworthy staff caring for them in their home."</p> <p>[Michele Patton, RN, Vice-President; Interim HealthCare, Inc. of Toledo]</p>	Please see ODA's response to comment #359.
367	<p>PARAGRAPH (B)(4): "The proposed rule does specify that the location for a review must be "mutually agreeable" to the reviewer, the provider, and the consumer. We would urge ODA to add language which requires that privacy be assured. There have been issues in the JFS waivers with certain CareStar reviewers doing structural reviews in restaurants, public libraries, or other sites where discussion of a provider's job performance or a consumer's medical information could be overheard by strangers."</p> <p>[Sarah Riegel, Research Analyst, Long-Term Care, Service Employees International Union, District 1199]</p>	Please see ODA's response to comment #359.
368	<p>PARAGRAPH (B)(4): "(B)(4) and (7) were discussed during the September 7th conference call as to whether the consumer needs to be included in the review. Given the consumer is the "employer of record" and has a responsibility to have these documents, it seems most appropriate for the employer to be present for such a review. The more appropriate question would seem to be, would it be necessary for all individual providers serving that consumer to be present? If necessary records are present with the consumer and kept up to date, we do not see a value in reviewing these same documents being kept by individual providers. The value seems to be in identifying that the documents are available and complete, not who keeps them. Given a consumer directed approach puts the consumer (or authorized representative) in the driver's seat, we should allow the consumers to be there and to act as the employer."</p> <p>[Pamela Wilson, Senior Vice-President, Long-Term Care; Area Office on Aging of Northwestern Ohio, Inc.]</p>	Please see ODA's response to comment #359.

	THE PUBLIC'S COMMENTS	ODA'S RESPONSES
369	<p>PARAGRAPH (B)(6)(a): "(B)(5) and (6) Units of service are reviewed ongoing with every billing cycle. It creates extra and duplicative work to specifically pull out and comment on a "preceding quarter". Having a documented process that regularly reviews billing should be sufficient."</p> <p>[Pamela Wilson, Senior Vice-President, Long-Term Care; Area Office on Aging of Northwestern Ohio, Inc.]</p>	<p>Please see ODA's response to comment #359.</p>
370	<p>PARAGRAPH (B)(6)(a): "Does this apply to long term care agency providers? Because if it does, it is not realistic."</p> <p>[Ohio Association of Area Agencies on Aging]</p>	<p>This paragraph regulates consumer-directed individual providers, not agency providers. Nevertheless, paragraph (A)(3) of the rule requires a review of 10% of an agency provider's records, non-agency-provider's records, or assisted living provider's records. This is not a new requirement.</p> <p>Also, please see ODA's response to comment #359.</p>
371	<p>PARAGRAPH (B)(7)(a): "(B)(4) and (7) were discussed during the September 7th conference call as to whether the consumer needs to be included in the review. Given the consumer is the "employer of record" and has a responsibility to have these documents, it seems most appropriate for the employer to be present for such a review. The more appropriate question would seem to be, would it be necessary for all individual providers serving that consumer to be present? If necessary records are present with the consumer and kept up to date, we do not see a value in reviewing these same documents being kept by individual providers. The value seems to be in identifying that the documents are available and complete, not who keeps them. Given a consumer directed approach puts the consumer (or authorized representative) in the driver's seat, we should allow the consumers to be there and to act as the employer."</p> <p>[Pamela Wilson, Senior Vice-President, Long-Term Care; Area Office on Aging of Northwestern Ohio, Inc.]</p>	<p>Please see ODA's response to comment #359.</p>

	THE PUBLIC'S COMMENTS	ODA'S RESPONSES
372	<p>PARAGRAPH (B)(7)(b): "If it is required for all individual providers to receive entrance notice, and an exit conference and report, this will result in a significant increase in work load. It may be manageable for a time when numbers are small, but as the number of individual providers grows, this would develop into a significant amount of staff time."</p> <p>[Pamela Wilson, Senior Vice-President, Long-Term Care; Area Office on Aging of Northwestern Ohio, Inc.]</p>	Please see ODA's response to comment #359.
373	<p>PARAGRAPH (B)(8): "add or an event based review"</p> <p>[Kathleen M. Geise, RN, QA Manager; Catholic Social Services/PASSPORT Administrative Agency]</p>	Please see ODA's response to comment #359.
374	<p>PARAGRAPH (B)(9): "(B) (9) should be (C) as Sanctions are for all types of providers"</p> <p>[Kathleen M. Geise, RN, QA Manager; Catholic Social Services/PASSPORT Administrative Agency]</p>	<p>Agency, non-agency, and assisted living providers are already subject to the sanctions language in the current rule.</p> <p>In our proposed rule, we separately listed the language for consumer-directed individual providers.</p> <p>Rule 173-39-05 of the Administrative Code is the general sanctions rule and it applies to all four types of providers.</p> <p>Also, please see ODA's response to comment #359.</p>
375	<p>PARAGRAPH (C): "Definitions should be (D)"</p> <p>[Kathleen M. Geise, RN, QA Manager; Catholic Social Services/PASSPORT Administrative Agency]</p>	Please see ODA's responses to comments #374 and #359.
376	<p>PARAGRAPH (B)(9)(a): "Paragraph (A)(8) of this rule states that providers must return overpayments whereas paragraph (B)(9)(a) makes it permissive - "may return overpaid funds". ODA is responsible for pursuing the recovery of overpayments in a matter consistent with ORC 5111.914. If so, should that process be referenced here?"</p> <p>[ODJFS]</p>	Please see ODA's response to comment #359.

	THE PUBLIC'S COMMENTS	ODA'S RESPONSES
377	<p>PARAGRAPH (B)(9)(a): "In section (B)(9)(a) the last line needs further clarification."</p> <p>[Ohio Association of Area Agencies on Aging]</p>	<p>ODA inserted "to" in between "designee" and "demonstrate."</p> <p>Also, please see ODA's response to comment #359.</p>
378	<p>PARAGRAPH (B)(9)(a): "In section (B)(9)(a) the last line does not make sense."</p> <p>[Joyce Boling, RN, BS, Chief of Quality Management; Ohio District 5 Area Agency on Aging, Inc.]</p>	<p>Please see ODA's response to comments #359 and #377.</p>
379	<p>PARAGRAPH (B)(9)(c): "The proposed rule gives ODA the power to impose immediate sanctions if the PAA makes it aware of the health or safety of the consumer at risk. We would add language that allows the PAA to temporarily remove the provider (for 5-7 days) from the consumer's case if there is evidence that the provider is endangering the consumer. The PAA should conduct an immediate investigation and determine within that 5-7 day period whether the provider should be permanently removed from the case."</p> <p>[Sarah Riegel, Research Analyst, Long-Term Care, Service Employees International Union, District 1199]</p>	<p>Thank you for your suggestion. ODA is planning to revise the rule on provider sanctions (rule 173-39-05 of the Administrative Code) and we will take this suggestion into account as we do so.</p>
380	<p>GENERAL: "In general, how will this be accomplished with current staffing?"</p> <p>[Barb Rapp, Quality Assurance Coordinator, Area Office on Aging of Northwestern Ohio, Inc.]</p>	<p>Please also see ODA's response to comments #359 and #396.</p>
381	<p>GENERAL: "At AAA 4 we already have an effective process for quality assurance of individual providers. It is not as formal in approach, as it does not require a formal entrance and exit, but it does cover the components of a thorough review process. The process outlined in this rule contains unnecessary multiple activities that would be duplicative and repetitive of the care management activities already built into the consumer-directed process."</p> <p>[Pamela Wilson, Senior Vice-President, Long-Term Care; Area Office on Aging of Northwestern Ohio, Inc.]</p>	<p>Please see ODA's response to comment #359.</p>

	THE PUBLIC'S COMMENTS	ODA'S RESPONSES
382	<p>GENERAL: "This section of the rule seems an attempt to duplicate and fit the requirements for agency providers into the consumer directed process and it does not fit well. Given consumer-direction is quite different, the approach should be unique and take into consideration existing processes and requirements."</p> <p>[Pamela Wilson, Senior Vice-President, Long-Term Care; Area Office on Aging of Northwestern Ohio, Inc.]</p>	Please see ODA's response to comment #359.
383	<p>GENERAL: "Monitoring of consumer directed providers should be more flexible in time frame and take into consideration the multiple ongoing quality assurance activities that are completed by care management. We would suggest having in rule the components needing monitored and for sites to be able to determine a best process for how to conduct the monitoring in an effective and efficient manner."</p> <p>[Pamela Wilson, Senior Vice-President, Long-Term Care; Area Office on Aging of Northwestern Ohio, Inc.]</p>	Please see ODA's response to comment #359.

IN GENERAL

	THE PUBLIC'S COMMENTS	ODA'S RESPONSES
384	<p>GENERAL (CHOICES vs., PASSPORT): "As the Choices Waiver already allows for consumer directed individual providers and has an existing service that is substantially similar to personal care, what is the purpose of adding them as a provider type on PASSPORT as opposed to expanding the Choices Waiver, especially in light of legislation that directed the ODA to expand the Choices Waiver program statewide?"</p> <p>"As you can see, there obviously are many serious issues that need to be addressed in this proposed major change to the PASSPORT program. The effective date is listed as January 1, 2011. While I am in full support of expanding consumer choice, this can easily be accomplished through the implementing the Choices program statewide as was the stated intent of our Legislators."</p> <p>[Craig A. Smith, Esq.; Interim HealthCare, Inc.]</p>	<p>H. B. № 1 did authorize ODA to request from CMS a Medicaid wavier to consolidate ODA's Medicaid waiver programs. Development of the consolidated Medicaid wavier will, in essence, take the Choices waiver statewide.</p> <p>As a step towards the consolidated model, ODA is offering a consumer-direction option through the PASSPORT program. Under the authority of section 173.40 of the Revised Code, ODA may implement the PASSPORT program with JFS, including the ability to utilize a consumer-direction model.</p>
385	<p>GENERAL (CHOICES vs., PASSPORT): "As the Choices Waiver already allows for CDIP and has an existing service that is substantially similar to personal care, what is the purpose of adding them as a provider type on PASSPORT as opposed to expanding the Choices Waiver?"</p> <p>[Jennifer Hall, RN, Administrator, Interim HealthCare, Inc. of Dayton]</p>	See ODA's response to comment #384.
386	<p>GENERAL (CHOICES vs., PASSPORT): "As the Choices Waiver already allows for CDIP and has an existing service that is substantially similar to personal care, what is the purpose of adding them as a provider type on PASSPORT as opposed to expanding the Choices Waiver?"</p> <p>[John Borns, Healthcare Recruiter; Maxim Healthcare Services; Moraine, OH]</p>	See ODA's response to comment #384.
387	<p>GENERAL (CHOICES vs., PASSPORT): "As the Choices Waiver already allows for CDIP and has an existing service that is substantially similar to personal care, what is the purpose of adding them as a provider type on PASSPORT as opposed to expanding the Choices Waiver?"</p> <p>[Robert Harris, Accounts Manager; Maxim Healthcare Services; Moraine, OH]</p>	See ODA's response to comment #384.

	THE PUBLIC'S COMMENTS	ODA'S RESPONSES
388	<p>GENERAL (CHOICES vs., PASSPORT): "I believe that expanding the Choices Waiver Program would be a better option as they already allow CDIP providers."</p> <p>[Luis Rivera, Maxim Healthcare Services, Inc.]</p>	See ODA's response to comment #384.
389	<p>GENERAL (CHOICES vs., PASSPORT): "I believe that expanding the Choices Waiver Program would be a better option as they already allow CDIP providers."</p> <p>[Nick Woronycz; Maxim Healthcare Services, Inc.; Westlake, OH]</p>	See ODA's response to comment #384.
390	<p>GENERAL (CHOICES vs., PASSPORT): "I am the manager for our Maxim Healthcare Services, Inc. branch here in Canton and had some concerns in regards to the proposal to allow CDIP to provide personal care services."</p> <p>"Since the Choices Waiver already allows for CDIP and has an existing service that is substantially similar to personal care, what is the purpose of adding them as a provider on Passport as opposed to expanding the Choices Waiver?"</p> <p>[Matthew T. Sotcan, Accounts Manager; Maxim Healthcare Services, Inc.]</p>	See ODA's response to comment #384.
391	<p>GENERAL (CHOICES vs., PASSPORT): "The Choices Waiver already allows for CDIP and the program is very similar to personal care. What is the need of adding them as a provider choice for PASSPORT? Isn't it possible to expand the current Choice Waiver program?"</p> <p>[Dan Wallace, Homecare Recruiter; Maxim Healthcare Services, Inc.]</p>	See ODA's response to comment #384.
392	<p>GENERAL (CHOICES vs., PASSPORT): "I know the Choice Waiver program already has IP's, so I was wondering why this program doesn't just expand instead of opening up a completely new one?"</p> <p>[Nathan Recker, Senior Healthcare Recruiter; Maxim Healthcare Services, Inc.; Akron, OH]</p>	See ODA's response to comment #384.

	THE PUBLIC'S COMMENTS	ODA'S RESPONSES
393	<p>GENERAL (CHOICES vs., PASSPORT): "Instead of adding Independent providers as a provider type on PASSPORT why not expand the Choices Waiver?"</p> <p>[Jeremy Markewicz; Maxim Healthcare Services]</p>	See ODA's response to comment #384.
394	<p>GENERAL (CHOICES vs., PASSPORT): "Since the Choices Waiver Services are very similar to CDIP, why is ODA not expanding the Choices Waiver Statewide instead of adding a provider type to PASSPORT?"</p> <p>[Cathie Hoffmann, RN, PD Compliance and Support Services Manager; Homecare by Black Stone]</p>	See ODA's response to comment #384.
395	<p>GENERAL (CHOICES vs., PASSPORT): "First, I do not understand the purpose of CDIP as opposed to expanding the CHOICES program, which was approved to go statewide in the last budget cycle and already allows for CDIP."</p> <p>[David Tramontana, Black Stone Home Care Companies]</p>	See ODA's response to comment #384.
396	<p>GENERAL (BUDGET): "With the proposal of 'Consumer-directed Individual Providers' and the anticipated significant increase in providers that must be monitored for compliance, I seriously question whether the State of Ohio has the resources, both financial and manpower, given the precarious state of Ohio's fiscal condition with a projected budget deficit of \$8 billion. In order to affect the orderly implementation of a Consumer directed Individual Provider program which is both 'doable' from an Agency compliance standpoint and maintains consumer safety as a paramount Program condition, proper resources must be allocated to manage an effective program.</p> <p>"I question the timing of the implementation of January 1, 2011. Given the significant demands currently on the Ohio Department of Aging with its limited resources, I question the Ohio Department of Aging's ability to gear up for this monumental change in the home health care delivery system. To be able to have resources authorized by Ohio's State Assembly; to be able to receive CMS approval, to be able to hire and properly train the additional staff needed to safely promote an expanded consumer choice program as the stated goal, I question the timing of the implementation date of January 1, 2011. This being said, I</p>	<p>ODA and PAAs will certainly have additional work to do as we implement the changes to include consumer-directed individual providers as eligible providers of PASSPORT personal care service. As with all changes, the early implementation of a new initiative are often the most challenging ones and we are indeed feeling the impact of those challenges. We appreciate your recognition of the additional strain on our resources.</p> <p>Adding CDIPs as PASSPORT providers of personal care requires changing our thinking and making changes to our existing structure. In many ways, certification for CDIPs is less complicated and time-consuming than certification of other provider types. Similarly, resolving problems that arise with CDIPs tends to be more straightforward and far less complex than resolving problems with other provider types. We anticipate that our workload will shift and we will continue to track the numbers and types of provider applicants and the time required for processing applications. Thank you for your support of this initiative.</p> <p>ODA appreciates your support for our work on behalf of Ohio's seniors. The implementation of consumer direction into the PASSPORT program through the personal care service will give us</p>

	THE PUBLIC'S COMMENTS	ODA'S RESPONSES
	<p>commend the Ohio Department of Aging's service to the seniors of our communities across the State of Ohio.</p> <p>[Tom DiMarco, Interim HealthCare, Inc.]</p>	<p>another tool to provide seniors with services in the manner that they prefer to receive them.</p> <p>ODA has experience in consumer direction and will apply that experience to the implementation of our new service delivery method of personal care.</p> <p>We appreciate your understanding of all of the hard work and dedication that our staff is putting toward this effort.</p>
397	<p>GENERAL (FRAUD): "Attached is a slide show that was put together by the Ohio Attorney General's Office, specifically by the Medicaid Fraud Control Unit. It clearly shows a correlation between Independent Providers and Fraud. It is alarming to me that our leaders would choose to support such an irresponsible bill that will lead to more wasteful spending and fraud. There is without a doubt a statistical relation between IPs and Fraud, and when we increase one of those independent variables, such as Independent Providers it will be accompanied by systematic changes in the variable such as Fraud.</p> <p>"I am interested in learning what could logically justify this proposed rule.</p> <p>"I look forward to hearing from your office, and learning more about the motives of this irrational proposition."</p> <p>[Attached slide show copied below]</p> <p style="text-align: center;">PASSPORT Home Health Provider Workshop</p> <p style="text-align: center;">“Medicaid Fraud”</p> <p style="text-align: center;">Area Agency on Aging PSA 2 March 31, 2010</p> <p>Lloyd Early, Special Agent-In-Charge Ohio Attorney General's Office Medicaid Fraud Control Unit</p> 	<p>The Ohio Department of Aging is committed to providing services that promote choice, independence and quality of life for aging Ohioans. Consumers are the focus of our service system. Our goal is to provide an array of services and methods of service provision that support the consumers' right to choose how and by whom their services are provided.</p> <p>Consumer direction is a philosophy and practice where consumers may assume the responsibility to assess their own needs, determine how and by whom those needs should be met, and evaluate the quality of the services they receive. Consumers can choose who will work for them and schedule services according to their preferences. Self determination and independent living are other terms that are sometimes used for consumer direction.</p> <p>In ODA's planning for consumer-directed individual providers ODA considered the potential fraud issues that you have identified with independent providers. ODA's service-delivery model includes numerous safeguards to support consumers in their role as employers.</p> <p>ODA's PASSPORT Information Management System (PIMS) ensures that only services that the case manager authorizes will be billable. Any variance from what is authorized must have the approval of the consumer's case manager. Unfortunately, this feature is not available through ODJFS' MMIS system.</p> <p>For more information, please review the self-direction handbook and other documents on the website of the National Resource Center for Participant-Directed Services (Boston College) which you can find here: http://www.bc.edu/schools/gssw/nrcpds/hcbs.org/ or http://www.bc.edu/schools/gssw/nrcpds/hcbs.org/</p>

THE PUBLIC'S COMMENTS

ODA'S RESPONSES

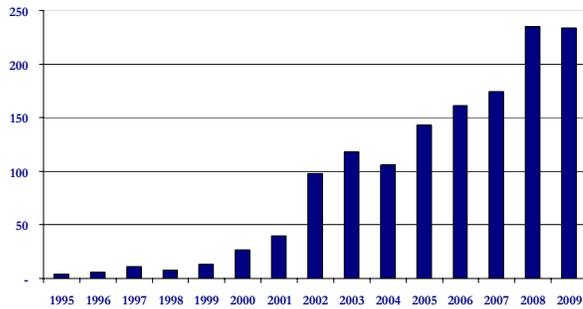


The MFCU

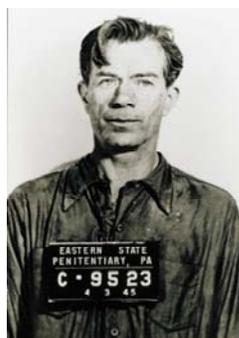
- Title XIX of the Social Security Act
- 1977 Anti-Fraud Amendment
- Nationwide network of 50 units
- 75% federally funded by HHS
- 42 U.S.C. 1396
- R.C. 109.85
- The Ohio Unit



Home Health Cases



“Slick Willie” Sutton

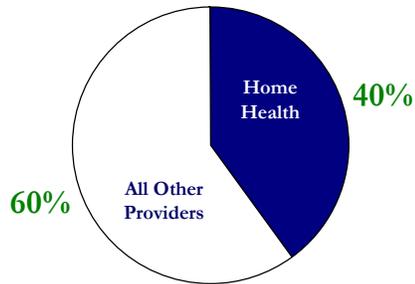


Please note that the Ohio Attorney General’s Office Medicaid Fraud Control Unit is primarily involved in investigating fraudulent activities of independent providers though ODJFS’ Home Care waiver program. Unfortunately, few agency providers are ever referred to the fraud unit since structural compliance reviews are not routinely conducted to monitor agency compliance. ODJFS’ contract agent, CARESTAR, conducts certification activities and monitors performance of IPs for the Home Care waiver program and makes most of the referrals of individual providers they suspect may be involved in fraudulent activities.

THE PUBLIC'S COMMENTS

ODA'S RESPONSES

2009 Fraud Case Mix



2008-2009 Home Health Summary

	<u>Convictions</u>		<u>Restitution</u>	
Agency Providers	4	4%	\$ 677,572	28%
Agency Employees	20	19%	\$ 123,656	5%
Independent Providers	73	71%	\$ 1,387,745	58%
Consumers/Other	7	6%	\$ 224,601	9%
	104	100%	\$ 2,413,574	100%

**R.C. 2913.40
Medicaid Fraud**

“No person shall knowingly make or cause to be made a false or misleading statement or representation for use in obtaining reimbursement from the medical assistance program.”

	THE PUBLIC'S COMMENTS	ODA'S RESPONSES
	<div data-bbox="272 260 342 327"> </div> <p data-bbox="354 268 669 310">Also prohibited...</p> <ul data-bbox="293 359 792 510" style="list-style-type: none"> • Charging a deductible or co-pay • Payment of kickbacks or rebates • Altering, falsifying, or destroying records <hr data-bbox="256 653 857 688" style="border: 1px solid orange;"/> <div data-bbox="711 642 857 684"> </div> <div data-bbox="272 774 342 842"> </div> <p data-bbox="354 783 792 825">Common fraud schemes</p> <ul data-bbox="293 873 776 1079" style="list-style-type: none"> • Services not rendered • Medically unnecessary services • Related parties • Consumer kickbacks • Employee frauds <hr data-bbox="256 1167 857 1203" style="border: 1px solid orange;"/> <div data-bbox="711 1157 857 1199"> </div> <div data-bbox="272 1289 342 1356"> </div> <p data-bbox="354 1297 623 1339">Consequences</p> <ul data-bbox="293 1367 769 1667" style="list-style-type: none"> • Criminal record • Provider agreement revocation • Federal exclusion • License revocation/suspension • Restitution & fines • Investigative costs • Jail/community control <hr data-bbox="256 1682 857 1717" style="border: 1px solid orange;"/> <div data-bbox="711 1671 857 1713"> </div>	

THE PUBLIC'S COMMENTS

ODA'S RESPONSES



Other remedies

- **State**
 - Theft, Forgery, Falsification, Tampering with Records/Evidence, Money Laundering
- **Federal**
 - Health Care Fraud, Health Care False Statements, Wire Fraud, Mail Fraud
- **False Claims Act**



MFCU “Secrets”

- Collaboration and cooperation
- Peer comparisons and data algorithms
- Bank/credit card records
- Covert physical surveillance
- Covert video surveillance
- Undercover operations
- Handwriting analysis
- Forensic chemistry



Lloyd Early, SAC
Ohio Attorney General’s Office
Health Care Fraud Section
Medicaid Fraud Control Unit
150 E. Gay Street, 17th Fl.
Columbus, OH 43215
(614) 466-0722

[Ralph Wills, Maxim Healthcare Services, Inc.]

	THE PUBLIC'S COMMENTS	ODA'S RESPONSES
398	<p>GENERAL (FRAUD): "Pre-Admission Screening System Providing Options and Resources Today (PASSPORT) eligible participants as referenced from the ODA website include those "frail enough to require a nursing home level of care." Many of these frail elderly consumers have multiple chronic conditions, are our most vulnerable, physically disabled, easily confused, and are easy targets of those who may want to take advantage of them.</p> <p>"ODA needs to take lessons learned from using IPs in other Ohio waiver programs. I want to focus your attention on the Ohio Attorney General's Office, Medicaid Fraud Control Unit's 2008-2009 Home Health Summary that found only 4% of fraud convictions were attributed to home health agencies (HHA), while 71% of fraud convictions were attributed to independent providers (IPs)! This is a dramatic difference, especially if you factor the total number of consumers serviced by an agency verses an IP. One IP will serve one to five consumers and one agency will serve 25 to over 1000 consumers. So moving away from a group of providers with a 4% fraud conviction rate and adding a new group with a 71% conviction rate to service PASSPORT enrollees will permit our most vulnerable and frail consumers to be targeted. Other than the elderly consumer who "employs," the IP, they have no supervision.</p> <p>"To ensure consumer safety, quality of care, and to minimize the potential for fraud and abuse, OCHCH has several concerns that have not been addressed:</p> <ul style="list-style-type: none"> a) The rules as written do not guarantee that the consumer is given a choice of providers by PASSPORT case managers. b) There is no limit on the number of consumers that can be serviced at any one time by a CDIP. c) As this new provider type, CDIP, is implemented what quality measures will be initiated to improve outcomes and consumer satisfaction? <p>"OCHCH is committed to working with ODA to address the various checks and balances that need to be in place to minimize potential fraud, abuse and address safety issues. We all need to be good stewards of the Medicaid funds, but these proposed rules do not address the key concerns of safety, quality of care, and the prevention of fraud and abuse. OCHCH must reiterate that our PASSPORT consumers are the frail, vulnerable,</p>	<p>Please see ODA's response to comment #397.</p> <p>With regard to your comment regarding a guarantee that the consumer is given a choice of providers by PP case managers, it must be recognized that the proposed rule changes under review for public comment are <u>provider certification</u> rules, not case management rules and not case management policies and procedures. There are, in fact written procedures at each PAA that direct informed consumer choice of providers.</p> <p>You are correct that there is no limit on the number of consumers that can be served by a single CDIP. This is not an error, but is intentional. Several consumers may need only a few units of personal care each week and their needs may in fact be met by a single CDIP. Case managers will monitor the availability and capacity of CDIPs as they currently do for agency providers.</p> <p>We share your concerns about checks and balances that need to be in place to minimize potential fraud and abuse and to address safety issues. ODA has designed the Medicaid waiver programs, including PASSPORT, to ensure appropriate oversight of consumer services and supports is in place. This is accomplished through quality improvement activities, the PASSPORT management information system (PIMS), the case management provided by PAAs, and other routine functions of our system of care. Our experience with the Choices waiver program has been encouraging and shows that authorized services are much more likely to be provided as authorized, consumers are more satisfied with services and supports they receive, and individual outcomes are positive.</p> <p>Finally, an older person may be in frail health and be deemed low-income but those issues do not, in and of themselves, have a negative impact on a person's ability to direct their own care, nor do they predispose an older person to be easily confused. An older person who is unable to direct his or her own care is still able to participate in a consumer-directed service delivery model through the involvement of an authorized representative. The ability to direct one's own care is not viewed as a burden by consumers who opt for this service delivery model, but rather as an opportunity to take an active and meaningful role in their own care.</p>

	THE PUBLIC'S COMMENTS	ODA'S RESPONSES
	<p>physically disabled, easily confused elderly individuals which make them easy targets of those who may want to take advantage of them. We must ensure that this does not happen in the PASSPORT program expansion.</p> <p>[Beth Foster, Regulatory Specialist; Ohio Council for Home Care and Hospice]</p>	
399	<p>GENERAL (FRAUD): "My name is Ryan Pinney. I am an Accounts Manager at Maxim Healthcare Services in Painesville, OH and our office has very recently gone through your provider application process for personal care services. I have to tell you that the process was the lengthiest, detailed and most cumbersome application process I have ever been through. With that being said there is no question in my mind as to why your licensing coordination department takes such care when considering offering provider status with the PASSPORT program. The aged population is at a certain disadvantage when it comes to protecting themselves so they must be looked after by an administrative program that is wise enough to look at non-agency providers with caution.</p> <p>"I have worked in the home health industry in an administrative role for just over 7 years and have come to see that without proper supervision an individual is often times capable of actions that they would normally not take part in. Please consider the statistics presented by Lloyd Early, Special Agent-In-Charge - Ohio Attorney General's Office - Medicaid Fraud Control Unit. According to his presentation Independent Providers accounted for 71% of total Home Healthcare Medicaid Fraud between 2008 and 2009. These numbers are of course derived from incidents that have been discovered. Common sense shows that it is much more efficient / less expensive for the state of Ohio to investigate an Agency Provider because all records are maintained in a central location. How long would it take for a surveyor to examine 30 medical records in my office here in Painesville? Compare that to how long and how much manpower it would take to investigate 30 client records managed by 30 different Individual providers and their self assigned supervisors.</p> <p>"I've come to respect the ODA and the PASSPORT program specifically for its commitment to the safety of the aged population in addition to the regulations they hold themselves to</p>	Please see ODA's response to comment #397.

	THE PUBLIC'S COMMENTS	ODA'S RESPONSES
	<p>in order to make that protection possible. Although it is true that some non-agency providers are people of character and can be trusted, there is no way to determine that unless there are eyes on them at all times. As an Agency provider we consider it our duty & responsibility to manage our employees in the field exactly as the ODA would have us do so. I beg you to put yourself in the shoes of an elderly man or woman attempting to make a decision about who their personal care services provider might be. It is our responsibility as professionals in the industry to set up systems that maximize their protection while still allowing them to make choices.</p> <p>"Thank you for your time. [Ryan M. Pinney, Accounts Manager; Maxim Healthcare Services, Inc.; Painesville, OH]</p>	
400	<p>GENERAL (FRAUD): "Fraudulent Activity: The fraudulent activity convictions by IP's accounted for 71% of the total convictions, when they are less than 10% of the total field of home health workers. That stat alone should steer any policy makers away from allowing this proposal to pass. We always talk about patient rights; well this shows you right here that these individuals are being taken advantage of."</p> <p>[Ryan M. Kennedy, Accounts Manager; Maxim Pediatric Services, Inc.; Boardman, OH]</p>	Please see ODA's response to comment #397.
401	<p>GENERAL (FRAUD): "There are also serious issues with fraud. OIG had over 100 convictions of fraud with the Ohio Homecare Waiver program, over 70% of them were from Independent Providers!! The next largest percentage was family or consumers themselves. Lastly, less than 15% were actually agencies including caregivers of agencies."</p> <p>[Ron DeLeeuw, Accounts Manager; Maxim Healthcare Services, Inc.; Toledo, OH]</p>	Please see ODA's response to comment #397.
402	<p>GENERAL (FRAUD): "Not sure what rule speaks to fraud, I would imagine they all do, but it puts fear in me the amount of fraud that can, and will continue to occur, with increased CDIP programs. I am a fan of a saying "math doesn't lie"; with that, all statistics show that convictions of fraud lie with those IPs that take advantage of the system, our tax dollars, and more importantly, the consumers themselves. Again, how will this be addressed and how can we continue to feel comfortable that</p>	Please see ODA's response to comment #397.

	THE PUBLIC'S COMMENTS	ODA'S RESPONSES
	<p>these numbers decrease before promoting more programs that will do nothing but encourage such unfair behavior? It is truly embarrassing reading such literature that does not address situations like these as the evidence speaks to our governments heads simply not communicating with one another. One department trying to crack down on such foul behavior, which is appreciated, and the other side putting such programs on the "fast track" such as this one.</p> <p>"I know I have gone down one side of this proposal, but when I think about it, it is difficult for me to not go back to these issues that need to be addressed prior to implementation. I am worried for the state of Ohio and the programs it helps facilitate and govern as I feel these CDIP programs will only prove to contribute to poor results financially for the state and most importantly in the care the consumers in our beloved communities will be receiving.</p> <p>"Thanks for reading these thoughts, and I look forward to hearing from some one in your department soon.</p> <p>[N. Paul Ceo, Community Representative]</p>	
403	<p>GENERAL (FRAUD): "Fraud and Abuse issues of concern – the Ohio Attorney General's Office, Medicaid Fraud Control Unit's 2008-2009 Home Health Summary that found only 4% of fraud convictions were attributed to home health agencies (HHA), while 71% of fraud convictions were attributed to independent providers (IPs). The CDIP, as listed, has no supervision aside from the elderly consumer, which is a prime target for fraud and abuse."</p> <p>[David Tramontana, Black Stone Home Care Companies]</p> <p>In addition, there are many areas of responsibilities left unclear, which could lead to instances of fraud and extra work on ODA, PAAs, or the consumers."</p> <p>"General Comments</p> <ul style="list-style-type: none"> - If consumer is the employer of record for the CDIP, will there be a fiscal agent to manage payroll? Who will pay taxes/unemployment premiums/workers compensation coverage/other liability 	Please see ODA's response to comment #397.

	THE PUBLIC'S COMMENTS	ODA'S RESPONSES
	<p>issues related to accident, injury, etc.?</p> <ul style="list-style-type: none"> - Will consumers receive training and be required to meet a certification process in order to be the employer of record? - . 	
404	<p>GENERAL (FRAUD): "I know that clients and employees can get too close and then fraud can start to happen."</p> <p>[Nathan Recker, Senior Healthcare Recruiter; Maxim Healthcare Services, Inc.; Akron, OH]</p>	<p>Our experience with the Choices waiver program has not born out your concerns about closeness leading to fraud.</p> <p>Also, please see ODA's response to comment #397.</p>
405	<p>GENERAL (FRAUD): "All I can think about is FRAUD. The monitoring will not be enough to control this aspect, we see it with the other waiver program ask the Attorney Generals Office. Our consumers are at the mercy of others especially the caregivers and nobody but themselves will be responsible now. How is that beneficial and many times its the family that takes advantage of them and these will be your individual providers."</p> <p>[Rebecca Jenei, RNC Genesis CareGivers Manager]</p>	<p>Please see ODA's response to comment #397.</p>
406	<p>GENERAL (FRAUD): "With many IP's working for family and friends this opens up more opportunities for fraud. Not to assume that everyone would do wrong, but it is much easier to be lenient with a family member or friend as appose to a stranger. I feel that times worked and care provided could easily be fraudulently documented to benefit both the IP and the consumer when there is not a governing body watching over the care giver and the patient daily."</p> <p>[Steve Switzer, Maxim Healthcare Services, Inc.]</p>	<p>Please see ODA's response to comment #397.</p>
407	<p>GENERAL (FRAUD): "Good morning. I wanted to take a moment to share my thoughts and concerns regarding independent providers entering the Passport program. I don't feel there is enough regulation with independent providers and there is too much faith put in there ability to properly care for patients. I know Passport requires a lot of regulation and attention to their patients. I feel that by allowing independent providers into the system will cause Passport to lose some control over the day to day activities of their patients. From a patient first perspective I would be concerned about the ability to quickly and efficiently staff a Passport case or replace an IP. Thank you for your time."</p>	<p>Please see ODA's response to comment #397.</p>

	THE PUBLIC'S COMMENTS	ODA'S RESPONSES
	[Ben Weible, Healthcare Recruiter / West Cleveland Adult; Maxim Healthcare Services, Inc.]	
408	<p>GENERAL (FRAUD): "Hello, after reviewing the draft on the rules that will govern these services I cannot help but to see where this will invite fraud. Having someone provide their own oversight for cases in which they work is inappropriate. It states clearly that any changes in condition be it physical or mental must be immediately reported to the appropriate individuals which are ultimately overseeing the particular case. Well it is not outside of the realm of possibility that these clients may become confused and the healthcare worker will not only not report this because of the loss of income but they may take advantage of the opportunity to exploit either directly or through a second or third party.</p> <p>"The fact that onsite compliance reviews are only performed annually will only make it easier for fraud and exploitation to take place. When a case is managed by a Home Health Care organization there are frequent supervisory visits as well as frequent shift validations performed as well as client satisfaction surveys and wellness visits. These visits and checks insure that not only does the consumer receive quality, competent care, but also allows for the insurance that they are not being exploited and the care provided is not only necessary but also adequate to meet the needs of the consumer.</p> <p>"That said there is also the possibility for harassment and intimidation of the clients in question. It will be easy for a provider to threaten the client into allowing all kinds of behavior and conduct not having someone directly overseeing the case. A facility or agency must adhere to many different regulations and has oversight. In order to maintain their own certification and conduct business they must comply with the regulations and conditions of participation. No I know that there are conditions for the IP but with no one checking on their compliance there is no way to enforce the cop's. When you make an appt with a client for your annual review the worker knows and in that situation you will get to see them putting their best foot forward and showing you exactly what you want and need to see to say they are compliant. After that things will go back to normal and the consumer may or may not divulge any impropriety.</p>	Please see ODA's response to comment #397.

	THE PUBLIC'S COMMENTS	ODA'S RESPONSES
	<p>"Thank you very much for your time and hearing my comments.</p> <p>[Ben Weible, Healthcare Recruiter / West Cleveland Adult; Maxim Healthcare Services, Inc.]</p>	
409	<p>GENERAL (FRAUD): "My main concerns on this would be that the IP's would not have any direct supervision. This can lead to fraudulent behavior that would not be beneficial to the patients."</p> <p>[Nicholas Maglis, Senior Recruiter; Maxim Healthcare Services, Inc.; Poland, OH]</p>	Please see ODA's response to comment #397.
410	<p>GENERAL (UNION): "Will CDIP providers be considered independent providers for the purpose of union representation or does their status as consumer directed, and therefore the status of the consumer as employer of record, exclude them from union representation?"</p> <p>[Craig A. Smith, Esq.; Interim HealthCare, Inc.]</p>	ODA's proposed rules do not address who is eligible for union representation.
411	<p>GENERAL (UNION): "Will CDIP providers be considered independent providers for the purpose of union representation or does their status as consumer directed, and therefore the status of the consumer as employer of record, exclude them from union representation?"</p> <p>[Jennifer Hall, RN, Administrator, Interim HealthCare, Inc. of Dayton]</p>	Please see ODA's response to comment #410.
412	<p>GENERAL (UNION): "Will CDIP providers be considered independent providers for the purpose of union representation or does their status as consumer directed, and therefore the status of the consumer as employer of record, exclude them from union representation?"</p> <p>[John Borns, Healthcare Recruiter; Maxim Healthcare Services; Moraine, OH]</p>	Please see ODA's response to comment #410.
413	<p>GENERAL (UNION): "Will CDIP providers be considered independent providers for the purpose of union representation or does their status as consumer directed, and therefore the status of the consumer as employer of record, exclude them from union representation?"</p> <p>[Robert Harris, Accounts Manager; Maxim Healthcare Services; Moraine, OH]</p>	Please see ODA's response to comment #410.

	THE PUBLIC'S COMMENTS	ODA'S RESPONSES
414	<p>GENERAL (UNION): "Will CDIP providers be considered independent providers for the purpose of union representation or does their status as consumer directed, and therefore the status of the consumer as employer of record, exclude them from union representation?"</p> <p>[Vickie L. Flatter, Director of Clinical Services; Home Health Care by Black Stone]</p>	Please see ODA's response to comment #410.
415	<p>GENERAL (UNION): "Will this proposed provider type be eligible to have union representation?"</p> <p>[Jeremy Markewicz; Maxim Healthcare Services]</p>	Please see ODA's response to comment #410.
416	<p>GENERAL (AGENCIES ARE BETTER): "As a long-time PASSPORT provider, I have great concerns about the proposed rules to allow Consumer Directed Independent Providers to provide personal care services. There are many layers of concern, from a business, taxpayer, and senior advocate perspective.</p> <p>"Overall, I believe that agency-provided services are good stewards of the state's Medicaid's dollars, provide quality care, and adequately protect the interests of the seniors, which is a priority for all of us. I strongly urge ODA to take a step back and truly investigate the consequences of this expansion to the PASSPORT consumer.</p> <p>[David Tramontana, Black Stone Home Care Companies]</p>	Please see ODA's general statement at the beginning of this document.
417	<p>GENERAL (AGENCIES ARE BETTER): [After ODA asked this follow-up question: "The personal care service is not a medical service, but more like bathing, dressing, etc.; so, it seems a consumer could qualify to oversee a CDIP in many instances. Also, because the service is more so composed of intimate tasks like bathing and dressing, it must seem understandable why a consumer would want to direct his or her own care and why he or she would want to choose and direct the provider. Are there certain criteria that you believe a consumer could meet that would qualify him or her to direct his or her own care?"]</p> <p>"Good afternoon Tom,</p> <p>"First off, thank you very much for your reply. It's always great to see that one's concerns are not only read, but also replied to. This doesn't always happen, so thank you for your feedback.</p>	Please see ODA's general statement at the beginning of this document.

	THE PUBLIC'S COMMENTS	ODA'S RESPONSES
	<p>"To answer your question, I believe that meal preparation, laundry, errands, can be handled by friends and neighbors. This is call "homemaker" services, or hands-off care. This is non medical. I don't see how agencies could really provide a safer or better experience than Independent Provider.</p> <p>"I completely understand that a consumer would want to be comfortable while receiving personal care and someone they know may help that comfort level. I also agree that a consumer could qualify to oversee their own care. Even in our services under Passport now, the consumer is in ultimate control of their care, and gives us directly freely.</p> <p>"My concern is that with medical services paid for by the State or Federal government, or any private/public insurance should not be administered by a friend, family, or neighbor and considered the same as receiving care from a certified, monitored, regulated provider. I say this in jest, but when I get sick, I can't send my mother-in-law (who makes an amazing chx noodle soup) over to care for me and have her bill Anthem and get paid the same as my primary care physician would on the basis that 'treatment is treatment' no matter the provider. I can't have a friend come to a nursing home to get paid to get me dressed in the morning and get paid by Medicaid. I have choice, but only among properly trained, monitored, and screened employee who will be better qualified to provide the necessary treatment. I don't see how seniors with Passport services need more healthcare choices than most Americans.</p> <p>"The goal of ODA is to ensure proper care and reduce risk for the elderly. Utilizing agencies provides this through maintaining strict hiring policies to ensure caregivers have proper training. A few examples of how this training is above what an independent provider is required to have:</p> <ul style="list-style-type: none"> • Not just on how to get someone dressed, but also proper ways to transfer someone to/from a bath tub to reduce fall risk. • Training on nutrition requirement to keep seniors healthy • First Aid training • Proper skin care to reduce risk of skin breakdown resulting in bed sores 	

	THE PUBLIC'S COMMENTS	ODA'S RESPONSES
	<ul style="list-style-type: none"> • OHSA training to reduce infections • Passing of screening tests to measure competency for multiple topics. Not all apply to all seniors, but could provide that "what if" knowledge testing to prepare for dire situations • When consumer's needs change, agencies provide additional training, but who trains friends and family and clinically supervises progress to ensure treatment is appropriate? <p>"I know I talked about fraud before, but you really have to look at protecting public funds, and OIG's stats aren't even close. Independent Providers were convicted of fraud more than 6 times homecare agencies.</p> <p>"To close Tom, healthcare provided by private or public funds, must be administered by healthcare professional, not friends and neighbors. When you or I put our own healthcare in the hands of professionals, there is a bit of being uncomfortable sometimes allowing them to do what we need, but it provides comfort knowing they are professionals, and they are there to provide what need. Friends can help, but we need to leave covered services to healthcare professionals.</p> <p>"Thanks again for your time Tom.</p> <p>[Ron DeLeeuw, Accounts Manager; Maxim Healthcare Services, Inc.; Toledo, OH]</p>	
418	<p>GENERAL (AGENCIES ARE BETTER): "My name is Alan Skrout. I am a Healthcare Recruiter with Maxim Healthcare Services in Painesville, Ohio. We have recently acquired our license to provide homecare services to PASSPORT clients. Although it is an honor it was quite a difficult task from start to finish. We initially had a surveyor come into our office and review charts of clients that we service through our Painesville office. After reviewing our charts and receiving our performance appraisal we were initiated into the application process. My concerns with a non-agency provider start with their ability to produce evidence of proper and compliant charting. What if they are a brand new IP with no evidence of past experience with individual clients? How can they show their ability to correctly document medication administration records? How can they prove that they are demonstrating legal homecare practices without any supervision? Our agency provides</p>	<p>Please see ODA's general statement at the beginning of this document.</p>

	THE PUBLIC'S COMMENTS	ODA'S RESPONSES
	<p>PASSPORT clients with the safety and comfort of nursing supervision, along with customer service calls by myself and my fellow recruiter to ensure client satisfaction. PASSPORT has regulations in place that need to be efficiently and properly managed. For instance, before we can send an aide or a nurse out to a PASSPORT client's home we must have our director go over the plan of care for the individual client with the nurse/aide who will be taking care of the patient. After the worker is informed on the patients care plan they MUST have an in-home competency evaluation done on them with an RN in a non-PASSPORT clients home. If they prove they are competent through the evaluation they may start services with the client. Who will be able to Comp the IP before entering the home of the consumer? We have great respect for ODA and the PASSPORT program. It is our job as an agency to make sure that our patients are receiving world-class care that is delivered safely and compliantly while giving the consumer the feel of comfort and dependability. We like for our consumers to make decisions for themselves that positively affect their long term care.</p> <p>"Thank you for your time.</p> <p>[Alan J. Skrout, Accounts Manager; Maxim Healthcare Services, Inc.; Painesville, OH]</p>	
419	<p>GENERAL (AGENCIES ARE BETTER): "Home Helpers has been an agency home care provider since 2009. We have developed sound practices and procedures to insure high quality of care. As an organization, we have the ability to insure client safety through training and audit programs, client protection through hiring practices, screening, and insurance levels, and quality of care through specific procedures and accountability.</p> <p>"These programs come at a great expense to organizations. Individual providers can not perform at the levels of an organization and insure the necessary protection for consumers. Individual providers will have no regular checks and balances or accountability for meeting high levels of care.</p> <p>"As an organization, we feel that allowing individuals to service the same consumer is degrading the current level of care being provided.</p>	Please see ODA's general statement at the beginning of this document.

	THE PUBLIC'S COMMENTS	ODA'S RESPONSES
	[Brian Heckman, Owner; Home Helpers]	
420	<p>GENERAL (AGENCIES ARE BETTER): "I am concerned about the proposed rules for Independent Providers.</p> <p>"We are already faced with too many home care agencies in Ohio, not to mention the amount of them that are not certified thru Medicare. I do not think it's in the best interest of our senior population to allow Independent Providers to take care of the elderly and get reimbursed thru the State funds.</p> <p>"If my Mom was in the hospital, I might go there every single day and help take care of her but that does not mean the hospital should pay me for my time or that I am actually qualified to do the job!</p> <p>[Vicki Dirr, Administrator; Hillebrand Home Health; Cincinnati, OH]</p>	Please see ODA's general statement at the beginning of this document.
421	<p>GENERAL (AGENCIES ARE BETTER): "From what I stated above [which is quoted elsewhere in this document], I am trying to say that independent providers do not do a wonderful job. We work hand-in-hand with many of them and they are excellent care-givers and do a wonderful job. The point that I am trying to make is that there are far more preventive measures and monitoring systems that are put in place by companies and agencies that monitor staffing needs, quality and progress of care, qualifications of providers, and fraudulent activity, than there are from IP's alone and what would be from the proposed CDIP."</p> <p>[Ryan M. Kennedy, Accounts Manager; Maxim Pediatric Services, Inc.; Boardman, OH]</p>	Please see ODA's general statement at the beginning of this document.

	THE PUBLIC'S COMMENTS	ODA'S RESPONSES
422	<p>GENERAL (AGENCIES ARE BETTER): "I'm emailing to express my concern about the introduction of Independent providers to Passport and ODA. I just don't understand why seniors are allowed to have an individual like it's the same thing as a contracted agency. There is a reason that Passport has contracted providers: to provide consistency in the delivery of services and process of each provider. This includes supervision, oversight, medical coordination, minimum training standards and screening tools.</p> <p>"There is no way to compare a neighbor or friend of a patient will have services delivered in the same manner as an agency. There are plenty of family or friends that would provide excellent care, but there are also those that would provide sub-par care, and due to the personal relationship, the Passport enrollee won't complain to Passport. [Portion of letter regarding fraud presented elsewhere in this document.]</p> <p>"Bottom line, with unmatched oversight, training, and regulations, agencies are far better at delivering the proper care needed to our seniors. This type of care must be regulated by agencies, not entrusted to friends and neighbors.</p> <p>[Ron DeLeeuw, Accounts Manager; Maxim Healthcare Services, Inc.; Toledo, OH]</p>	<p>Please see ODA's general statement at the beginning of this document.</p>
423	<p>GENERAL (AGENCIES ARE BETTER): "I think it is in the best interest of the aged and disabled population that their home health be provided to them through accredited agencies. "</p> <p>[Holly Plotts, RN, BSN, Clinical Supervisor; Maxim Healthcare Services, Inc.; Canton Homehealth]</p>	<p>Please see ODA's general statement at the beginning of this document.</p>
424	<p>GENERAL (AGENCIES ARE BETTER): "I feel that agencies can provide more support for seniors. We have more employees who are better qualified and we offer back up workers."</p> <p>[Bill Dohrmann, Senior Recruiter; Maxim Healthcare Services, Inc.; Toledo, OH]</p>	<p>Please see ODA's general statement at the beginning of this document.</p>

	THE PUBLIC'S COMMENTS	ODA'S RESPONSES
425	<p>GENERAL (AGENCIES ARE BETTER): "I am extremely concerned about the implementation of this service. The individuals who are appropriate for the PASSPORT program are vulnerable and subject to exploitation on many levels. They deserve our objective support in making sure they are safe in the environment in which they choose to live. Without the same oversight that is required of agency providers I fear many will be at the mercy of family and "friends" who are self serving in their involvement. The proposed rules as written do not assure adequate oversight of these providers."</p> <p>[Cathie Hoffmann, RN, PD Compliance and Support Services Manager; Homecare by Black Stone]</p>	Please see ODA's general statement at the beginning of this document.
426	<p>GENERAL (AGENCIES ARE BETTER):</p> <p>We are writing in regards to the Ohio department of Aging's (ODA) intent to add Independent Providers (IP) to the PASSPORT Program. As Registered Nurses, such a proposal greatly concerns us. Having had over 29 collective years of home health experience, we have first hand knowledge of the importance of having supervision over field staff working within the client's home. The lack of supervision by a responsible Home Health agency provides overwhelming opportunity for fraud, neglect, and abuse.</p> <p>Having a supervising Home Health Agency, and thus supervising nurse, provides greater assurance that the client's needs are being met due to the following reasons:</p> <ul style="list-style-type: none"> • A Nurse develops the client's plan of care. • A Nurse makes a home visit to the client each certification period to review and update pertinent information as indicated, discussing the aide's performance with the client. • Lack of supervision opens the floor for neglect, and abuse. IPs may knowingly or unknowingly fail to meet the total needs of the client. Abuse is a potential hazard related to the fact that the elderly often live alone and are vulnerable to those who would chose such a field to financially or physically abuse them. Aides gain their trust or sympathy and the consumer is often reluctant to file official complaints against them. A supervising/mediating agency is more apt to detect such behaviors in both the aide and the client who is reluctant to turn them in. • Lack of supervision opens the floor for fraud, in those seeking reimbursement for services not actually rendered. • An Agency, especially a Medicare certified agency, is held to a high standard of regulatory guidelines that they must follow. Although IPs have standards they must follow, they are not as stringent as those mandated to a certified agency. • An agency has to provide a back-up plan to assure that the client's needs will be met. An IP could be a no-show without anyone every being aware, as consumers may fail to relay that to the PASSPORT program. • Through an agency, we have a 24 hour a day 7 day a week response line available to the clients to address complaints/concerns and a nurse is available to answer questions regarding the patient's health status. <ul style="list-style-type: none"> • Thorough an agency, field staff are educated in how to properly care for the clients and provided with frequent in-services to assure that they have the appropriate and up-to-date level of knowledge necessary to properly meet the needs of the client population. • The consumer's health and life is at greater risk when they are not assured care by a qualified individual and when there is no nurse to provide a liaison between them and their physician in times of health crisis. • Agencies have to submit to internal audits and reviews to assure that they and their staff are following proper regulations and guidelines. • Agencies have to assure that all applicable taxes are paid by the agency and employees. IPs often run in to financial ruin when they do take in account the need to pay or set aside their obligatory tax owed based on their earnings. The failure to obtain proper taxes by the IPs puts a greater financial burden on the government and the people. This loss of timely tax revenue, threatens the availability of programs such as Passport, which are vital to meeting the health needs of the elderly and ailing populations. <p>It is our hope that you will reconsider the decision to open this program to Independent Providers as doing so threatens the program itself, the funding that provides it, and the health and well-being of the population it intends to serve.</p> <p>[Dawnetta Abbett, RN, Administrator, and CEO; Suzanne Zornes, RN, BSN, and Assistant Administrator; Ruthie Lucas, LPN and Quality Assurance Director; A&L Home Care & Training Center, LLC]</p>	Please see ODA's general statement at the beginning of this document.

	THE PUBLIC'S COMMENTS	ODA'S RESPONSES
427	<p>GENERAL: "Thank you for the opportunity to submit comments regarding the proposed changes to the rules related to the Personal Care Services program. Home care to Ohio's vulnerable seniors is an essential service to help them stay safe at home with effective treatment.</p> <p>"Over the years, Ohio has help lead the national efforts to provide the elderly and disabled with home and community based care options as preferred alternatives to institutional care. The proposed changes, if properly revised, can continue that noteworthy direction in long term care.</p> <p>"The National Association for Home Care & Hospice, Inc. is the largest trade association on the United States representing he interests of hoe care providers and patients. NAHC has over 6000 members dedicated to providing the highest quality service in the home to people of all ages and disabilities. NAHC members include nonprofit, proprietary, hospital-based, and government run providers of Medicare, Medicaid, commercial insurance, and private pay home care. Home care providers employ over 1 million professional and paraprofessional caregivers meeting the needs of more than 12 million people each year.</p> <p>"The proposed rule at issue in these comments modifies the nature of the provider options in the valuable personal care services program offered under Ohio Medicaid. The proposed modification creates the opportunity for eligible beneficiaries to use a Consumer-Directed Individual Provider (CDIP) to supply authorized home care services. The CDIP option is an alternative to care provided through an agency model.</p> <p>"While NAHC has long supported the availability of home care through a self-directed are model such as proposed with CDIP, the use of a consumer-directed service approach must be done in a manner that assures consumer safety, effectiveness of care, quality service, accountability, and program integrity. Over the years, consumer-directed care has provided an important care alternative while also raising serious issues when inadequately devised and implemented. NAHC has evaluated numerous consumerdirected care programs in a number of states and has found common concerns that are better addressed in the formative stages of the program rather than after the program has caused</p>	<p>We will take your comments into consideration as we continue to develop consumer direction in the PASSPORT program.</p>

	THE PUBLIC'S COMMENTS	ODA'S RESPONSES
	<p>harm to beneficiaries and uncontrolled growth in spending for Medicaid.</p> <p>"NAHC recommends that the Ohio Department of Aging assess its proposed CDIP program proposal using the checklist of program operational elements set out at the end of these comments to determine if it will be formed in a reasonable manner that achieves quality of care, access to services, accountability and integrity.</p> <p>"These elements of a sound, accountable Personal Care Services (PCS) program can be categorized into a five-prong structure that addresses issues of quality, waste, safety, worker security, and due process.</p> <p>"In our review of the state's proposal, it appears that it is deficient in a number of the structural areas that are crucial to appropriate program architecture. It is wholly unclear as to whom, if anyone is the employer of the CDIP. This ambiguity alone puts ODA at risk under various federal and state laws including the Internal Revenue Code, federal unemployment insurance laws, workers compensation laws, and common law liabilities for negligent care. At the same time, if the consumer is considered if the consumer is considered the employer, comparable management responsibilities and liability risks ensue.</p> <p>"A further significant deficiency is the lack of comprehensive standards for determining whether the consumer can and wants to engage in care self-direction. Such a care approach is not a "one size fits all." An essential concurrent component is client choice— the consumer should not be forced to accept CDIP or influenced to accept CDIP because less care may be provided in an alternative delivery model.</p> <p>"These are only some of the areas of concern in the ODA proposal. Most are due to ambiguity or the absence of the optimal operational element. We respectfully recommend that ODA return to a clean slate for the program's redesign and provide a meaningful opportunity for the affected parties to participate in the development of a reliable CDIP.</p> <p>"Structural Elements to consider:</p> <ul style="list-style-type: none"> • A professional care manager assigned to each recipient with responsibilities for ongoing support, evaluation and 	

	THE PUBLIC'S COMMENTS	ODA'S RESPONSES
	<p>supervision.</p> <ul style="list-style-type: none"> • A professional care manager to determine consumer ability to self-direct care • Minimum standards of training and competency for caregivers verified by objective and qualified certifying agencies. • Oversight and audit systems to periodically review care plans, the provision of services and the qualifications of caregivers • Assistance in the identification and selection of competent caregivers <p>"Rationale for Recommendation One: Proper training leads to higher-quality care. Whenever untrained and unqualified individuals are put in the position of providing essential personal care, especially for individuals with complex physical or mental conditions, there is substantial risk that the care will be substandard and of inconsistent quality.</p> <p>"An essential quality assurance consideration is: basic level provider competencies, and training requirements that are necessary for ensuring that providers are capable of safely and effectively delivering care. Consumers directing their own care and their caregivers should be afforded the same important protections that are required when care is provided through other providers.</p> <p>"For the safety of consumers and caregivers, the training, testing, and quality standards to which other providers are held should apply to all models of care. Caregivers should be trained and competency tested before being permitted to provide services. NAHC is concerned that, in the absence of minimum quality standards, individuals participating in the program will be in jeopardy and the government could be held liable. Assurance of compliance with quality standards is critical for protection of both the consumer and the service provider.</p> <p>"Every individual should gain the benefit of a comprehensive needs assessment. If the self-directed care option is considered by the consumer. That individual must be carefully assessed to determine whether he or she is willing, AND able to assume the required responsibilities for hiring, training, supervision and other employee issues. A goal of home care is to foster independence in the least restrictive environment. Individuals who are capable and</p>	

	THE PUBLIC'S COMMENTS	ODA'S RESPONSES
	<p>choose to should be permitted to self-direct care. However, those who are unable to assume the many responsibilities associated with this model should be required to choose other options.</p> <p>"States should be required to ensure that federally funded programs provide adequate assurances that individuals receiving funding for consumer directed care are capable of properly directing providers to deliver needed services safely and effectively. Included are cases where the services provided require highly-trained health care workers, such as when insulin injections, catheter care, nasogastric tube insertion and feeding, ventilator care, suctioning, and other services are needed. Individuals who self-direct but have not been thoroughly trained in complex medical treatments themselves, will be unable to train a provider. Errors in carrying out complex medical procedures have the potential for disastrous repercussions for the individual and added costs to the health care system.</p> <p>"A person receiving highly skilled services must be deemed capable of directing the caregiver in the performance of needed tasks.</p> <p>"Clearly, the self-directed model provides recipients who are capable of directing their care more choice and greater independence. However, protections must be put in place to avoid assigning individuals to this model of care who are incapable of training and supervising their caregiver. It is critical that states' decisions to use this model are not driven by cost considerations instead of consumer needs or quality. Further, consumers directing their own care should be afforded the same important protections (such as those recommended by the Centers for Disease Control and those imposed by OSHA regarding blood borne pathogens) that are required when care is delivered by other healthcare providers.</p> <p>"Recommendation Two: Waste Control All PCS programs must maintain accurate oversight of initial and ongoing program eligibility, care plans, and payments through well designed, administered, and monitored systems</p> <p>"Structural Elements to Consider</p> <ul style="list-style-type: none"> • A utilization review system to ensure that the authorized care is consistent with the ongoing recipient needs • Claim verification and validation through 	

	THE PUBLIC'S COMMENTS	ODA'S RESPONSES
	<p>minimum documentation review standards</p> <ul style="list-style-type: none"> • The development of fiscal management safeguards to assure that accurate and timely payments for services are made to the proper parties in the correct amounts <p>"Rationale for Recommendation Number Two: There is a growing demand for PCS services concurrent with shrinking financial resources to meet those demands. As such, no dollars should be wasted on ineligible consumers, fraudulent claims, unnecessary services, or in payments to caregivers providing inappropriate care. Evidence is increasing that some consumers receive unnecessary care after their condition changes, that payments for care that has not been provided are made, and that fraudulent activities of both caregivers and recipients is occurring. Basic oversight systems on the front end as well as the back end through audits and automated reviews can go a long way to reducing wasteful spending. This allows for a preservation of these essential PCS programs for those with bona fide needs.</p> <p>"Recommendation Three: Safety Adopt protections against abuse and neglect of individuals through systems designed to screen caregivers, exclusions from participation of unqualified or fraudulent parties, and oversight of care.</p> <p>"Structural elements to Consider</p> <ul style="list-style-type: none"> • Criminal background checks and credit screening of all caregivers initially, upon hiring, and periodically thereafter • Expulsion from the program of providers and consumers found to be engaging in abuse, neglect, or fraudulent practices • Provider training in ethical issues and avoidance of practices that are fraudulent and abusive <p>"Rationale for Recommendation Three: Fraud and abuse is the exception, rather than the rule, but is unacceptable in any case. At times, media attention has focused on the unacceptable. But only a few cases of abuse of individuals receiving care in the home can fuel consumer anxiety and industry concern about the need for better consumer protections. It must be acknowledged that as in any industry, there are a few unscrupulous individuals who defraud and abuse the system and its consumers. Consumers have also been known to defraud the system.</p>	

	THE PUBLIC'S COMMENTS	ODA'S RESPONSES
	<p>Fraud and abuse cannot be tolerated in any form. The care environment must be safe for consumers and caregivers and free of abuse, exploitation, and inappropriate care. Criminal background checks are important components of ensuring consumer safety.</p> <p>"Criminal background checks cannot be relied on as the sole method of keeping consumers safe. No matter how effective, the criminal background check should not substitute for the most basic and prudent personnel practices that any responsible employer would undertake to establish the appropriateness, safety, and suitability of an applicant. There should be thorough screening by an appropriate agency. Training should also focus on guidelines for protecting care recipients' rights and include antifraud and abuse training. Individuals who are self-directing their own care should also receive training concerning what constitute fraudulent and abusive practices, and the penalties for engaging in them, similar to that required of Medicaid providers.</p> <p>"It is totally inappropriate for individuals who engage in abusive, negligent, or fraudulent practices to be allowed to participate in a program with so little oversight and so few protections.</p> <p>"Recommendation Four: Worker Security Ensure that worker's rights are protected consistent with the protections afforded other employees in health care services.</p> <p>"Structural Elements to Consider</p> <ul style="list-style-type: none"> • Ensure that all caregivers have a bona fide employer consistent with all state and federal standards • Provide training to mitigate worker liability for consumer injury or other adverse event • Provide training as required by OSHA on employee safeguards for blood borne pathogens, ergonomics, and respiratory protection • Provide liability insurance • Provide worker's compensation protection • Ensure compensation is in compliance with the Fair Labor Standards Act and any applicable state wage and hour <p>"Rationale for Recommendation Four: It is more likely that both clients and workers will be put in jeopardy unless training in and employment of important OSHA safeguards is</p>	

	THE PUBLIC'S COMMENTS	ODA'S RESPONSES
	<p>required. Training should include blood borne pathogen precautions and respiratory protection. Furthermore, training in proper technique for lifting and transferring individuals is essential for consumer and worker protection. Individuals caring for the sick and disabled are more prone to musculoskeletal injuries if not adequately trained in proper moving and lifting techniques. Consumers are more prone to falls and other injuries when being cared for by individuals who have not been properly trained in appropriate techniques for moving and lifting disabled individuals.</p> <p>"The protection of workers has been a basic right in this country for decades. Standards are silent on worker protections. The Fair Labor Standards Act requires employers to comply with certain minimum wage and overtime payment protections. Those employed by individuals engaged in self-directed care, and paid for from state and federal funds, should be ensured these same protections.</p> <p>"All care-giving employees, as workers, have the right to be protected, and freed from responsibility and liability for care provided properly, to the same degree as other employees. They should have benefit from liability protections, minimum wage, and over time protections. These care-givers should also be afforded worker compensation protections that other health care employees in other settings receive.</p> <p>"Recommendation Five: Due Process Provide due process to consumers and providers of PCS with respect to all controversies that arise in care-giving in the home.</p> <p>"Structural Elements to Consider</p> <ul style="list-style-type: none"> • Establish a resolution process that the state would implement when problems arise between consumers and providers. • Ensure consumer choice to receive care from a self-directed care or agency model <p>"Rationale for Recommendation Five: Employ a resolution process that can be applied when disagreements arise between the consumers and caregivers is critical to smooth program operation. Employment of an effective process will reduce the number of instance where rifts between individuals result in loss of necessary services and the added burden of finding new caregivers. Consumer choice of care delivery</p>	

	THE PUBLIC'S COMMENTS	ODA'S RESPONSES
	<p>models is crucial if the consumer's needs are to be at the right time, in the right manner, and consistent with standards of quality and safety.</p> <p>"Not all individuals in need of PCS are capable of self-directing care. Likewise, not all individuals wish to be served through an agency model care. Rights of the consumers are best protected by making available both options in care delivery.</p> <p>"Thank you for consideration of these comments.</p> <p>[William A. Dombi, Vice-President for Law, National Association for Homecare and Hospice]</p>	
428	<p>GENERAL: "We support the principle of consumer direction contained within these proposed rules. We believe that allowing independent providers in the PASSPORT waiver will be beneficial for consumers and help mitigate growing workforce issues in home care.</p> <p>"The use of individual providers has long been established in the waivers operated by ODJFS and ODODD, as well as the Choices waiver operated by ODA. Consumers in PASSPORT deserve the same ability to choose an IP as consumers in these other waiver programs.</p> <p>"Consumers who hire individual providers will be able to exercise more choice and control over who delivers their personal care services and how they are delivered. Studies from around the country have shown a correlation between the ability of consumers to self-direct their care and satisfaction with that care. Although traditional PASSPORT does have high rates of consumer satisfaction, this could be enhanced by allowing those consumers who want more control over their services to hire individual providers.</p> <p>"Ohio's population is aging, and demand for long-term care services is expected to grow rapidly in the coming decades. There is virtually unanimous agreement that this demand cannot be met through the heavy reliance on institutional care settings that Ohio has traditionally used. Community-based alternatives like PASSPORT will need to expand, but there are questions about whether the workforce will expand quickly enough to keep up with demand. The use of individual providers can help expand the workforce – both because friends and family members of consumers who would not necessarily consider</p>	Thank you.

	THE PUBLIC'S COMMENTS	ODA'S RESPONSES
	<p>working for an agency could come into the home care workforce as IPs, and because the lack of overhead costs associated with agencies means that individual workers could keep a higher percentage of the reimbursement and thus have a better opportunity at earning a living wage.</p> <p>"Not all consumers will wish to hire an individual provider. Thousands of PASSPORT consumers are being well-served by agencies now, and many of them will choose not to alter this arrangement. But these proposed rules allow those consumers and providers who feel that they would be better served by a different arrangement the opportunity to choose it. This will help make PASSPORT an even better program than it is today."</p> <p>[Sarah Riegel, Research Analyst, Long-Term Care, Service Employees International Union, District 1199]</p>	
429	<p>GENERAL: "o4a appreciates the opportunity to comment on rule 173-39-01 Consumer-Directed Individual Providers and applauds ODA's leadership in bringing consumer-directed care to older frail Ohioans. Consumer-directed care brings choice in the kind of services older Ohioans receive in their homes and communities."</p> <p>[Ohio Association of Area Agencies on Aging]</p>	Thank you.
430	<p>GENERAL: "The Proposed changes to OAC 179-39-01 et seq involve the addition of a new provider-type, the Consumer-directed Individual Provider ("CDIP") to be screened, hired, and supervised, specifically by the PASSPORT "consumer" who by definition is a person who is aged or infirmed and in need of assistance with activities of daily living to maintain his or her safety. These services have been up to this point delivered almost exclusively by certified PASSPORT agency providers who maintain an employee/employer relationship with the caregiver, have liability for any injury to the consumer or the employee, are responsible for assuring compliance with criminal record verification, must assure compliance with the Services plan of care – in short are accountable to ODA & the PAA as well as the consumer.</p> <p>"The Proposed rule introduces a new provider group without such accountability and with whom the consumer is the overseer and employer for the purposes of compliance with the rules and overall</p>	<p>Please see ODA's general statement at the beginning of this document and proposed new rule 173-42-06 of the Administrative Code.</p> <p>Also, please see ODA's responses to comments #397, #148, #195, #210, #213, and #74.</p>

	THE PUBLIC'S COMMENTS	ODA'S RESPONSES
	<p>accountability. The PASSPORT consumer group in general is elderly or are individuals with severe disabilities that need help with various activities of daily living, are frail in many cases both physically and mentally. Although there are exceptions, this group of consumers is very vulnerable to exploitation and not at all – as a group - capable of oversight of the caregivers. The issues with Independent Providers in the other existing Ohio programs have been well – publicized and are well known to managers and staff at ODJFS. Thus, the Independent Provider group needs more monitoring by the State program administrators than Agency providers, not less as provided in the proposed rule, to assure proper care is rendered and the consumers are safe from exploitation and abuse in all forms. It is significant to note that the Ohio Attorney General's office reports that 71% of Medicaid fraud convictions for home health services in the 2008-2009 year were attributable to Independent Providers in the ODJFS Medicaid Waiver programs.</p> <p>"In addition, the imposition of an express 'employer' status on the consumer creates specific duties for the consumer that in many, if not most cases, could impose liability for unpaid employment taxes, workers compensation, and workplace safety under OSHA. At a minimum, these consumers MUST be informed of the duties that will result from "employment" of the CDIP.</p> <p>"The proposed rule permitting the use of CDIP's needs significant amendment to assure that this vulnerable population and the program itself is protected from fraud, abuse & exploitation. Certainly there are a few consumers that are competent to contract for their own care, but for the purposes of safety there still needs to be professional oversight of the personal care services. In addition, even the most competent consumer must be advised of the legal consequences of accepting to contract with and be the employer of a CDIP.</p> <p>[Elizabeth Zink Pearson, Esq.; Pearson & Bernard PSC]</p>	

	THE PUBLIC'S COMMENTS	ODA'S RESPONSES
431	<p>GENERAL: "Thank you for the opportunity to comment on these regulations. My name is Michelle Patton, RN, I am the Vice President of the Interim HealthCare, Inc. Office in Toledo Ohio. In 14 days I will be celebrating 13 years of employment with this company and working with the seniors in our community. Prior to that I spent over 17 years working with seniors in the nursing home setting. From my experience in the nursing homes I learned if given a choice most seniors would prefer to be at home. From my experience in home care I have learned that most seniors want reliable, trustworthy staff to care for them in their homes.</p> <p>"When I review the proposed rules I find that they closely mirror the IP rules that we see as well every day in the Ohio Home Care waiver programs. What is of greatest concern to me is that if you were to review the fraud that occurred with this population of employees for this program why would you ever even consider applying this type of rule for our most fragile population seniors. When they say they want reliable and trustworthy staff coming into their homes to care for them then we need to listen. Listen much like when it was heard they want to return to their homes vs. being in a nursing home.</p> <p>"I have dedicated my career to caring for those who cannot care for themselves and we need to hear them. If more opportunities for family members to care for their loved ones are necessary then let them be trained and employed by those of us who have dedicated themselves to this cause. Thank you for allowing me this opportunity to express my concerns. Feel free to call me if you have any further questions.</p> <p>[Michelle Patton, RN, Vice-President; Interim HealthCare, Inc. of Toledo]</p>	<p>Please see ODA's general statement at the beginning of this document.</p> <p>Also, please see ODA's responses to comments #397 and #148.</p>

	THE PUBLIC'S COMMENTS	ODA'S RESPONSES
432	<p>GENERAL: "As an attorney who is involved in home health care, I have particular concerns with the proposed rules changes that enable a new type of provider, the Consumer-directed individual provider" (CDIP) to provide services in the PASSPORT program. As you know, the PASSPORT program serves many of our more frail and vulnerable citizens. In general, these proposed rules fail to protect these individuals with adequate direct supervision of CDIP's; adequate commercial, liability and theft insurance; and adequate methods of determination as to the qualifications of the consumer to serve in the capacity of being the employer of record of the CDIP."</p> <p>[Craig A. Smith, Esq.; Interim HealthCare, Inc.]</p>	<p>Please see ODA's general statement at the beginning of this document and ODA's proposed new rule 173-42-06 of the Administrative Code.</p> <p>Also, please see ODA's responses to comments #397, #148, #195, #210, #213, #46, and #50.</p>
433	<p>GENERAL: "I have researched the Consumer-Directed Provider Draft rules and after considerable thought have concluded that the Passport Consumer who by definition is aged, infirmed and characteristically frail would become exponentially vulnerable to exploitation from this proposed group of Consumer-Directed caregivers.</p> <p>"While the current Certified Passport Agency providers are rigorously examined and inspected for program compliance, the proposed Consumer-Directed Caregivers and rules as proposed are extraordinarily deficient by current healthcare practices.</p> <p>"Some of these deficiencies include:</p> <ul style="list-style-type: none"> • Criminal record verification • Service plan compliance • Caregiver accountability • Lack of Consumer Training as an Employer • Caregiver BWC premiums • Employer Responsibilities <ul style="list-style-type: none"> • Liability Insurance • Federal Tax withholding • Matching Social Security Taxes • Matching Medicare Taxes • Federal Unemployment Taxes • State Withholding Taxes • State Unemployment Taxes • State Commercial Activities Tax • Ohio Bureau of Workers Compensation Tax • Department of Labor Accountability 	<p>Please see ODA's general statement at the beginning of this document and ODA's proposed new rule 173-42-06 of the Administrative Code.</p> <p>Also, please see ODA's responses to comments #74, #148, #195, #210, #213, #46, and #50.</p>

	THE PUBLIC'S COMMENTS	ODA'S RESPONSES
	<ul style="list-style-type: none"> • Overtime Pay • The Civil Rights Act • OSHA • Federal & State Minimum Wage Laws <p>"Attempting to place these significant responsibilities upon the consumer and circumvent certified providers such as I not only creates an unfair labor practice but almost certainly assures deterioration of the Passport programs integrity. In fact, If the State of Ohio is going to hire CONTACTORS to act as caregivers, then I require the same rules be applied to my organization, Ohio Home Health Care, Inc.</p> <p>"In conclusion, the proposed Consumer-Directed Provider and associated rules impose considerable liabilities on a vulnerable population with an incredible lack of professional oversight. Many of the consumer safeguards are simply nonexistence in the proposed rules. For all of the reasons listed above, the Consumer-Directed Provider type should not go forward. This is a really bad idea and it should be removed from the rule amendment process."</p> <p>[Sidney S. Siegel, Administrator; Ohio Home Health Care, Inc.]</p>	
434	<p>GENERAL: "Allowing Independent Providers in the PASSPORT program. This is a terrible idea"</p> <p>[Daniel Brad, General Manager; Comfort Keepers #178]</p>	<p>Please see ODA's general statement at the beginning of this document.</p>
435	<p>GENERAL: "Working in and being a part of the healthcare community in Ohio, I believe that Ohio is now starting to move forward with more regulations on those who provide service to homecare patients."</p> <p>[Nick Woronycz; Maxim Healthcare Services, Inc.; Westlake, OH]</p>	<p>For years, ODA has adopted rules to regulate community-based long-term care programs. ODA has also strived to work with other state agencies and to make similar regulations from one agency to the next (and within each agency) so that the regulations are predictable from one agency to the next (and within each agency).</p>

	THE PUBLIC'S COMMENTS	ODA'S RESPONSES
436	<p>GENERAL: "In general for all rules, is it necessary to refer to other rule numbers in these rules? Can't the wording from the other rule be incorporated in our rule and include the rule number if needed? I find myself going to the referenced rule and that rule then refers me to another rule. When does it end?"</p> <p>[Barb Rapp, Quality Assurance Coordinator, Area Office on Aging of Northwestern Ohio, Inc.]</p>	<p>Although we want to write rules that all people can understand, we are, in fact, writing state regulations that many people are required to follow. When we refer to a topic that is regulated by another rule, we're responsible to cite that rule so that the reader knows where to find that information.</p>
437	<p>GENERAL: "What validated outcome based quality improvement processes will ODA and IPs be utilizing to demonstrate value based purchasing to CMS?"</p> <p>[Gwen Toney, Vice-President Government Affairs; Ohio Home, Hospice & Palliative Care Organization]</p>	<p>ODA will be implementing the same monitoring and quality improvement processes that we utilize for <u>all</u> PASSPORT waiver services. The Quality Improvement Strategy that ODA uses was approved by CMS in the most recent PASSPORT renewal application in 2008 for a 5-year period.</p>