

Rule Summary and Fiscal Analysis (Part A)**Department of Aging**

Agency Name

Division

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Rule Number

NEW

TYPE of rule filing

Rule Title/Tag Line

Social work counseling service.**RULE SUMMARY**

1. Is the rule being filed consistent with the requirements of the RC 119.032 review? **No**

2. Are you proposing this rule as a result of recent legislation? **No**

3. Statute prescribing the procedure in accordance with the agency is required to adopt the rule: **119.03**

4. Statute(s) authorizing agency to adopt the rule: **173.02, 173.391, 173.40**

5. Statute(s) the rule, as filed, amplifies or implements: **173.39, 173.391**

6. State the reason(s) for proposing (i.e., why are you filing,) this rule:

ODA is proposing to replace the current rule with new rule. In doing so, ODA has three goals:

1. To comply with the five-year review required under section 119.032 of the Revised Code.

2. To adopt rule on the social work counseling service that is substantially similar to the requirements for providing a social work counseling service under the rules of Department of Job and Family Services (JFS) and the Department of Developmental Disabilities (DoDD), which are also under development or may

soon be under development.

a. The goal is to provide consistent requirements for providers among the three agencies' Medicaid waiver programs. The rule content was developed by a consolidation exploration team of the Executive Medicaid Management Agency (EMMA), which Governor Strickland created with Executive Order 2007-36S. ODA, JFS, and DoDD were part of that team.

b. Certainly, there are differences in the rules each agency will propose, but the content is substantially similar. One exception is that ODA's proposed new rule requires the provider to provide the service in the consumer's home, while JFS' proposed rule language does not require this and DoDD's forthcoming proposed language may not require this.

c. One noticeable, but insubstantial, difference is that ODA's regulations on the service appear in a rule that regulates just one service and follows the format of other rules that ODA has proposed since Executive Order 2008-04S (see goal #3 below), while JFS' regulations on the service appear in a rule that regulates several services and follows the format of other JFS rules. (See paragraph (D) of rule 5101:3-51-04 of the Administrative Code for JFS' language on the service.)

d. Other changes resulting from the EMMA workgroup are as follows:

i. ODA is proposing to allow marriage and family therapists (MFTs) and independent marriage and family therapists (IMFTs) to perform the service.

ii. ODA is proposing to no longer require counseling staff to have at least one year of counseling service (elsewhere) before providing this service.

iii. ODA is proposing to replace the requirement to document "the consumer plan implementation and the outcomes" with "clinical record" with "discharge summary" language used by JFS.

3. To comply with Governor Strickland's Executive Order 2008-04S: "Implementing Common Sense Business Regulation," which requires all state agencies to write easier-to-read and easier-to-comprehend rules to promote transparency in state regulations.

a. ODA complies with the executive order by:

i. Complying with Chapter 5 of the Legislative Service Commission's "Rule Drafting Manual," as found on http://www.lsc.state.oh.us/rules/rdm06_06.pdf

ii. Incorporating recommendations from "Advanced Legal Drafting" by Bryan A. Garner (Dallas: LawProse, Inc. (c) 2007)

iii. Incorporating recommendations from "Plain English Writing Tips," as found on http://business.ohio.gov/docs/RegReform_PlainEnglishWritingTips.pdf.

b. The result is language that:

i. Generously uses descriptive sub-headings (e.g., "Clinical record," "Units and rates," etc.) and divides topics in rules to fit under those sub-headings in order to enable readers to thumb through the rule

ii. Begins with general material that appeals to most rule readers (e.g., what a service does) and ends with specific material that appeals to fewer readers (e.g., provider qualifications, units of service)

iii. Uses the active voice in the present tense, not the passive voice (e.g., "shall be") and not the future tense (e.g., "will")

iv. Uses the singular, unless the plural is necessary

v. Replaces legalese with plain-English words

7. If the rule is an AMENDMENT, then summarize the changes and the content of the proposed rule; If the rule type is RESCISSION, NEW or NO CHANGE, then summarize the content of the rule:

This rule regulates the PASSPORT program's social work counseling service.

8. If the rule incorporates a text or other material by reference and the agency claims the incorporation by reference is exempt from compliance with sections 121.71 to 121.74 of the Revised Code because the text or other material is **generally available** to persons who reasonably can be expected to be affected by the rule, provide an explanation of how the text or other material is generally available to those persons:

This response left blank because filer specified online that the rule does not incorporate a text or other material by reference.

9. If the rule incorporates a text or other material by reference, and it was **infeasible** for the agency to file the text or other material electronically, provide an explanation of why filing the text or other material electronically was infeasible:

This response left blank because filer specified online that the rule does not incorporate a text or other material by reference.

10. If the rule is being **rescinded** and incorporates a text or other material by reference, and it was **infeasible** for the agency to file the text or other material, provide an explanation of why filing the text or other material was infeasible:

Not Applicable.

11. If **revising** or **refiling** this rule, identify changes made from the previously filed version of this rule; if none, please state so:

On July 21, 2010, ODA refiled this rule to edit the public hearing notice, to announce a subsequent public hearing, and to revise this RSFA accordingly. ODA did not amend the rule's language.

12. 119.032 Rule Review Date:

(If the rule is not exempt and you answered NO to question No. 1, provide the scheduled review date. If you answered YES to No. 1, the review date for this rule is the filing date.)

NOTE: If the rule is not exempt at the time of final filing, two dates are required: the current review date plus a date not to exceed 5 years from the effective date for Amended rules or a date not to exceed 5 years from the review date for No Change rules.

FISCAL ANALYSIS

13. Estimate the total amount by which *this proposed rule* would **increase / decrease** either **revenues / expenditures** for the agency during the current biennium (in dollars): Explain the net impact of the proposed changes to the budget of your agency/department.

This will have no impact on revenues or expenditures.

\$0.00

ODA estimates that the adoption of this proposed new rule will have no impact upon the biennial budget established for ODA by the Ohio General Assembly.

14. Identify the appropriation (by line item etc.) that authorizes each expenditure necessitated by the proposed rule:

GRF-490-423 Long-Term Care Budget - State.

3C40-490-623 Long-Term Care Budget.

4J40-490-610 PASSPORT/Residential State Supplement.

4U90-490-602 PASSPORT Fund.

15. Provide a summary of the estimated cost of compliance with the rule to all directly affected persons. When appropriate, please include the source for your information/estimated costs, e.g. industry, CFR, internal/agency:

ODA estimates that the adoption of this proposed new rule will generate no new costs to any directly-affected person. In fact, it may reduce a provider's costs. Because it contains the same substantial content as the social work counseling requirements being proposed by JFS, a provider who works under both systems will be able to work under one set of criteria. ODA is also no longer requiring providers to have one year's experience in their field before providing this service.

16. Does this rule have a fiscal effect on school districts, counties, townships, or municipal corporations? **No**

17. Does this rule deal with environmental protection or contain a component dealing with environmental protection as defined in R. C. 121.39? **No**