

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

Agency Name

Division

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173-39-02

Rule Number

AMENDMENT

TYPE of rule filing

Rule Title/Tag Line

Conditions of participation.**RULE SUMMARY**

1. Is the rule being filed consistent with the requirements of the RC 119.032 review? **Yes**

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, 5111.89**

5. Statute(s) the rule, as filed, amplifies or implements: **173.39, 173.391, 173.402, 173.403, 173.431, 5111.89**

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

ODA is proposing to amend rules 173-39-01, 173-39-02, 173-39-02.11, 173-39-03, and 173-39-04 of the Administrative Code and to adopt new rule 173-42-06 of the Administrative Code. In doing so, ODA has 5 basic goals:

1. To increase consumer choice by allowing consumers to hire consumer-directed personal care providers for the personal care service through the PASSPORT program on a statewide basis. [Before the February 4, 2011 refiling, ODA called these providers, "consumer-directed individual providers."] In doing so, the proposed new rules give PASSPORT consumers a new right to choose a method by

which to receive their personal care: either from an agency-provider method or a consumer-directed method.

2. To implement a rule on the choices and responsibilities bestowed upon a consumer who directs a consumer-directed personal care provider under the PASSPORT program.
3. To comply with section 119.032 of the Revised Code, which requires each state agency to review each rule on or before the rule's designated review date.
4. To comply with Governor Strickland's Executive Order 2008-04S: "Implementing Common Sense Business Regulation," which requires each state agency to write easier-to-read and easier-to-comprehend rules to promote transparency in the agency's regulations. (Because the process of adopting this proposed new rule spans two gubernatorial administrations, it is also ODA's goal to comply with Governor Kasich's new Executive Order 2011-01K "Establishing the Common Sense Initiative.") As a result, ODA's proposed new or amended language:
 - a. Complies 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
 - b. Incorporates recommendations from "Advanced Legal Drafting" by Bryan A. Garner (Dallas: LawProse, Inc. (c) 2007)
 - c. Incorporates recommendations from "Plain English Writing Tips," as found on http://business.ohio.gov/docs/RegReform_PlainEnglishWritingTips.pdf.
5. To format the new language in ODA's rules in the same way, rule after rule, in a manner that corresponds with the cooperative effort of other agencies that participate that also participate in the consolidation exploration team of the Executive Medicaid Management Agency (EMMA), which Governor Strickland created with Executive Order 2007-36S.

In addition to the 5 basic goals stated above, ODA is also proposing to amend the rule in ways detailed in items #7 and #11 of Part A of this RSFA.

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, as refiled on February 4, 2011, presents the conditions of participation for each of the five types of ODA-certified long-term care providers: agency providers, non-agency providers, consumer-directed individual providers, assisted living providers, and consumer-directed personal care providers.

In addition to implementing the goals stated in item #6 of Part A of this RSFA as the basic reasons for proposing to amend this rule, ODA's proposed amended rule:

1. Replaces "PAA" with "ODA's designee" throughout the rule.
2. Replaces the verbs "provide" and "deliver" (and their inflections) with "furnish"(and its inflections) throughout the rule.
3. Replaces "he/she" with "he or she" throughout the rule.
4. Adds "of the Administrative Code" after "173-39-02.20" in paragraph (B)(1)(a) of the rule.
5. Moves paragraph (B)(1)(c) of the rule underneath paragraph (B)(1)(d) [i.e., now "(B)(1)(c)"] of the rule, paragraph (C)(1)(c) of the rule underneath paragraph (C)(1)(d) ["(C)(1)(c)"] of the rule, paragraph (D)(1)(c) of the rule underneath paragraph (D)(1)(d) ["(D)(1)(c)"] of the rule, and paragraph (E)(1)(e) of the rule underneath paragraph (E)(1)(f) ["(E)(1)(e)"] of the rule.
6. Removes the redundant use of "the following unprofessional, disrespectful, or illegal behavior" in paragraphs (B)(1)(e), (C)(1)(e), and (D)(1)(e) of the rule.
7. Adds a comma after "mental" in paragraphs (B)(1)(e)(xii) and (C)(1)(e)(xii) of the rule.
8. Adds two commas to paragraph (B)(1)(e)(xvi) of the rule.
9. States in paragraphs (B)(1)(e)(xiv), (C)(1)(e)(xiv), and (D)(1)(e)(ix) of a rule that a provider may not also be the consumer's authorized representative.
10. Inserts "no later than one business day after the provider is aware of the incident" at the end of paragraphs (B)(2)(a), (C)(2)(a), and (D)(2)(a) of the rule.
11. States in paragraph (B)(4)(f) of the rule that a provider shall not allow a staff person to furnish a service to a consumer if the person is a the consumer's power of attorney and state in paragraphs (C)(4)(a) and (D)(4)(g) of the rule that a provider shall not provide a service to a consumer if he or she is the consumer's power of attorney. Additionally, state in paragraph (D)(4)(g) of the rule that a provider shall not provide a service to a consumer if he or she is the consumer's legal guardian or power of attorney. Also, state in paragraph (E)(4)(d) of the rule that a provider shall not allow a staff person to furnish a service if the person is the consumer's power of attorney. Also, combine paragraphs (D)(1)(e)(viii) and (D)(1)(e)(vix) of the rule.
12. Inserts "retaining" before "consumer records" in paragraph (B)(4)(h)(ii) of the rule.
13. Replaces the comma after "provision of services" in paragraph (C)(1)(e)(x) of the rule with the words, "without notifying."

14. Replaces both uses of "place of work" with "workplace" in paragraph (C)(5)(b) of the rule.

15. Replaces "rules" with "rule" in paragraph (C)(6)(a) of the rule.

16. Inserts "of the Administrative Code" after "173-39-02.18" in paragraph (C)(6)(a) of the rule.

17. Deletes paragraph (D)(1)(c) of the rule.

18. Inserts a requirement under paragraph (D)(1)(c) of the rule for the provider to notify ODA's designee if the consumer is admitted to a hospital or has visited an emergency room.

19. Replaces "consume medicine, drugs, or other chemical substance" in paragraph (D)(1)(e)(ii) of the rule with "Consuming medicine, drugs, or other chemical substances."

20. Deletes paragraph (D)(2)(c) of the rule because not all providers furnish a service that requires driving. (a home care attendant service vs., a personal care service)

21. Inserts paragraph (D)(4)(b) which requires Medicaid agreements.

22. Replaces "is" in paragraph (D)(4)(c) of the rule with "shall be."

23. Requires, in paragraph (D)(4)(d) of the rule, each provider to have both a valid social security number and one of three photo IDs.

24. Requires in paragraph (D)(4)(e) of the rule that each provider to read, write, and understand English.

25. States in paragraph (D)(4)(f) of the rule that each provider shall be able to effectively communicate with the consumer.

26. States in paragraph (D)(4)(h) of the rule that the provider shall maintain a telephone service.

27. States in paragraph (D)(4)(i) of the rule that the provider shall maintain a secure place for retaining consumer records.

28. Requires the provider, in paragraph (D)(4)(j) of the rule, to comply with all applicable federal, state, and local laws.

29. Requires the provider, in paragraph (D)(4)(l) of the rule to participate in mandatory training sessions.

30. Clarifies that consumer-directed individual providers in the Choices Program enter into agreements with the consumer that include rates negotiated with the

consumer (see paragraph (D)(6) of the rule), but consumer-directed personal care providers in the PASSPORT program enter into agreements with ODA's designee that include set rates (see paragraph (F)(6) of the rule.)

31. Adds "of any type" after "provider" in paragraph (G) of the rule to clarify that the paragraph applies to any provider type.

32. Adds a requirement for all provider types, not just the consumer-directed individual provider, to participate in ODA's (and its designee's) mandatory provider training sessions.

33. Removes language that requires a consumer-directed individual provider to comply with the rules that regulate the alternative meal service or the pest control service in paragraph (D)(1)(b) of the rule, because only a non-agency provider may provide an alternative meal service and only an agency provider or non-agency provider may provide a pest-control 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 February 4, 2011, ODA refiled this rule to:

1. Indicate in paragraphs (C)(1)(a) and (D)(1)(b) of the rule that it is a non-agency provider, not a consumer-directed individual provider, that ODA may certify to provide an alternative meal service. Make the corresponding changes in paragraphs (C)(6)(a), (D)(4)(e), and (D)(5)(b) of the rule.

2. Indicate in paragraphs (C)(1)(a) and (D)(1)(b) of the rule that it is a non-agency provider (as well as an agency provider, as indicated in paragraph (B)(1)(a) of the rule), not a consumer-directed individual provider, that ODA may certify to provide a pest-control service. Make the corresponding changes in paragraphs (C)(6)(a), (D)(4)(e), and (D)(5)(b) of the rule.

3. Replace "if furnishing a" in paragraph (D)(1)(b) of the rule with "to furnish the," because the home-care attendant service is the only service that ODA may authorize a consumer-directed individual provider to perform. (See #4 and #5)

4. Remove the reference to the personal care service in paragraph (D)(1)(b) of the rule, because ODA will now call the proposed consumer-directed provider of the personal care service under the PASSPORT program a "consumer-directed personal care provider." Therefore, ODA is no longer proposing to authorize any consumer-directed individual provider to perform the personal care service. Make the corresponding changes in paragraphs (D)(1)(d), (D)(1)(e), (D)(4)(e), (D)(5)(b), and (D)(6) of the rule.

5. Create paragraph a new (F) of the rule and change the current paragraph (F) of the rule not paragraph (G) of the rule. Paragraph (F) of the rule contains the conditions of participation for the consumer-directed personal care provider, which are very similar to those of the consumer-directed individual provider under paragraph (D) of the rule as refiled on February 4, 2011, except for the paragraphs on reimbursement. Paragraph (D)(6) formerly said, "Reimbursement: A provider working under the choices program shall accept the reimbursement levels negotiated between the provider and the consumer for each service as payment in full and not seek any additional payment for those services from the consumer or any other person. A provider working under the PASSPORT program, shall accept the reimbursement rate that the written agreement with ODA's designee establishes for each service as payment in full and not seek any additional payment for those services from the consumer or any other person." Now, paragraph (D)(6) says, "Reimbursement: A provider shall accept the reimbursement levels negotiated between the provider and the consumer for each home care attendant service as payment in full and not seek any additional payment for those services from the consumer or any other person." Now, new paragraph (F)(6) says, "Reimbursement: The provider shall accept the reimbursement rate that the written agreement with ODA's designee establishes for each personal care service as payment in full and not seek any additional payment for services from the consumer or any other person." Additionally, make corresponding changes to paragraph (A) of the rule to

indicate that there are five types of providers, not four.

6. Replace "relating to costs, work performed, and supporting records for payment of work performed, along with copies of all deliverables for" in paragraphs (B)(5)(a), (C)(5)(a), and (E)(5)(a) of the rule with "necessary, and in such form, so as to fully disclose the extent of the services the provider furnished, and significant business transactions,...". Additionally, replace paragraphs (D)(5)(a)(i) and (D)(5)(a)(ii) of the rule which said, "The provider shall retain records as evidence that he or she complies with each condition of participation under this rule so long as ODA certifies the provider" and "The provider shall retain records as evidence that he or she complies with each requirement under rule 173-39-02.2, 173-39-02.3, 173-39-02.4, or 173-39-02.11 of the Administrative Code for any service the provider furnishes that is regulated by one or those rules, until the latter of:" with a new paragraph (D)(5)(a) of the rule that, like paragraphs (B)(5)(a), (C)(5)(a), and (E)(5)(a) of the rule says, "The provider shall retain all records necessary, and in such form, so as to fully disclose the extent of the services the provider furnished, and significant business transactions, until the latter of:". Then, promote paragraphs (D)(5)(a)(ii)(a), (D)(5)(a)(ii)(b), and (D)(5)(a)(ii)(c) of the rule to paragraphs (D)(5)(a)(i), (D)(5)(a)(ii), and (D)(5)(a)(iii) of the rule. Next, change "three" to "six" in paragraphs (B)(5)(a)(i), (C)(5)(a)(i), (D)(5)(a)(i), and (E)(5)(a)(i) of the rule. These actions in #6 are in response to a review conducted at the request of Midwest Care Alliance and Ohio District 5 Area Agency on Aging, Inc. over the number of years a provider is required to retain records. Because, in rule 5101:3-1-17.2 of the Administrative Code, JFS requires the same providers to retain records six years, ODA is making this change to make the length of years match, which eliminates a discrepancy between the rules. ODA also sought to make the language in between the paragraphs more comparable to one another.

7. Replace "a" in paragraphs (B)(1)(e), (C)(1)(e), and (D)(1)(e) of the rule with "an ethical" and add "unethical" before "professional" in the same paragraphs. ODA is making these changes in response to a request at the public hearing from the Midwest Care Alliance. Agency providers and assisted living providers are businesses with employees. ODA requires those employers to adopt ethical standards for their employees. However, ODA simply requires non-agency providers and consumer-directed individual providers to adopt the ethical standards listed in the rule. ODA agrees that it should require a provider's behavior to be ethical, but also believes that a comprehensive expectation of all providers is more appropriate. Therefore, ODA will also require agency providers' ethical standards to require ethical behavior.

8. Insert "of" in between "furnishing" and "services" in paragraph (D)(1)(c)(iii) of the rule.

9. Revise paragraphs (B)(1)(e)(xv), (C)(1)(e)(xv), and (D)(1)(e)(viii) of the rule so they begin with "Selling to, or purchasing from, the consumer...".

10. Replace the occurrences of "or or" in paragraphs (B)(1)(c), (B)(2)(a) and (B)(4)(n) of the rule with "or."
11. Insert the words, "The provider shall participate in ODA's (and its designee's) mandatory provider training sessions," as paragraphs (B)(4)(o), (C)(4)(g), and (E)(4)(j) of the rule.
12. Replace "without supervision by the provider's supervisory staff" in paragraph (C)(4)(b) of the rule with "except as ODA's designee authorizes the provider to do so through its contract with the provider." (Note: A non-agency provider does not have supervisory staff.)
13. Revise this RSFA.

12. 119.032 Rule Review Date: **11/18/2010**

(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

The Ohio General Assembly established ODA's biennial budget. ODA will implement the rule within the fiscal parameters the General Assembly established and will adjust expenditures so that it does not exceed those parameters. Thus, the proposed amended rule is cost-neutral. It has no impact upon the amount of revenue ODA receives or the amount of revenue ODA spends during the biennium.

ODA's proposed new consumer-direction option will allow the PASSPORT program to maintain cost-neutrality. ODA's analysis indicates that, through an agency-provider (the only option today), a PASSPORT consumer receives an average of 60 hours of the personal care service per month at an average rate of

\$16.15 per hour. This results in an average expenditure on personal care of \$969.17 per month per consumer. ODA's proposed new consumer-direction option will give a PASSPORT consumer the option to direct his or her own personal care service at a lower cost. If the PASSPORT consumer using this option receives 60 hours of the personal care service per month at the \$12.72 per hour rate proposed in ODJFS' rule 5101:3-1-06.1 of the Administrative Code, the average expenditure on personal care for that consumer will be \$763.20 per month per consumer, or \$205.97 less per month than if the consumer received the personal care service through an agency provider. ODA will redirect the \$205.97 per month per consumer difference to support the PASSPORT program's administrative activities and care for other PASSPORT consumers.

ODA projects that the initial demand from PASSPORT consumers to choose to direct their own personal care service will be slow: less than 1% of the current PASSPORT consumers for the remainder of this fiscal year and 3.6% of the PASSPORT consumers for the next fiscal year. Therefore, ODA projects a minimal impact to the PASSPORT program's current operations.

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:

Once adopted, the proposed amendment of rules 173-39-01, 173-39-02, 173-39-02.11, 173-39-03, and 173-39-04 of the Administrative Code, and the proposed adoption of rule 173-42-06 of the Administrative Code, as well as the Center for Medicare and Medicaid Service's recent approval of Ohio's request to amend the PASSPORT Medicaid waiver, give PASSPORT consumers the option to choose a new method by which to receive the personal care service. Once these rules are adopted, consumers may use the new option to choose the consumer-directed method to receive the service instead of the agency-furnished method.

While this new option does not create a new cost to agency providers who furnish personal care services, it could create a new "cost" in the form of a potential loss of

market share. Currently, agency providers furnish 100% of the PASSPORT program's personal care services. After the rules are adopted, ODA estimates that they will lose a small share of the market.

If a consumer who currently receives the personal care service from an agency provider begins to direct his or her own personal care service, the agency provider will no longer spend dollars caring for the consumer, but will also no longer be reimbursed for caring for the consumer. Instead, the PASSPORT program will reimburse the consumer-directed personal care provider.

ODA projects that the initial demand from PASSPORT consumers to choose to direct their own personal care service will be slow: less than 1% of the current PASSPORT consumers for the remainder of this fiscal year and 3.6% of the PASSPORT consumers for the next fiscal year. Therefore, ODA projects that agency providers will see a minimal loss of caseload.

Additionally, because the PASSPORT program is growing as the population of seniors continues to increase, the agency providers may see no loss of consumers whatsoever.

When ODA refiled the rule on February 4, 2011, ODA proposed to amend the rule to require agency, non-agency, and assisted-living providers to be subject to a requirement that ODA had previously set for the consumer-directed individual providers (and consumer-directed personal care providers). The requirement was to participate in ODA's (and its designee's) mandatory provider training sessions. If the training requires travel to a training site, the provider could incur a cost of compliance to travel to the training site. If the training has a fee, the provider would incur the cost of compliance to pay the fee.

16. Does this rule have a fiscal effect on school districts, counties, townships, or municipal corporations? **Yes**

You must complete Part B of the Rule Summary and Fiscal Analysis in order to comply with Am. Sub. S.B. 33 of the 120th General Assembly.

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

Rule Summary and Fiscal Analysis (Part B)

1. Does the Proposed rule have a fiscal effect on any of the following?

(a) School Districts	(b) Counties	(c) Townships	(d) Municipal Corporations
No	Yes	Yes	Yes

2. Please provide an estimate in dollars of the cost of compliance with the proposed rule for school districts, counties, townships, or municipal corporations. If you are unable to provide an estimate in dollars, please provide a written explanation of why it is not possible to provide such an estimate.

Once adopted, the proposed amendment of rules 173-39-01, 173-39-02, 173-39-02.11, 173-39-03, and 173-39-04 of the Administrative Code, and the proposed adoption of rule 173-42-06 of the Administrative Code, as well as the Center for Medicare and Medicaid Service's recent approval of Ohio's request to amend the PASSPORT Medicaid waiver, give PASSPORT consumers the option to choose a new method by which to receive the personal care service. Once these rules are adopted, consumers may use their new option to choose the proposed consumer-directed method for receiving personal care rather than the agency-furnished method.

While this new option does not create a new cost to government entities who furnish personal care services as an agency provider, it could create a new "cost" in the form of a potential loss of market share. If a consumer who currently receives the personal care service from a government begins to direct his or her own personal care service, the government's agency will no longer spend dollars caring for the consumer, but will also no longer be reimbursed for caring for the consumer.

Instead, the PASSPORT program will reimburse the consumer-directed personal care provider. Currently, agency providers (government-owned and privately-owned together) furnish 100% of the PASSPORT program's personal care services. After the rules are adopted, ODA estimates that they will lose a small share of the market. If a consumer who currently receives the personal care service from a government operating as an agency provider begins to direct his or her own personal care service, the government-owned agency provider will no longer spend dollars caring for the consumer, but will also no longer be reimbursed for caring for the consumer. Instead, the PASSPORT program will reimburse the consumer-directed personal care provider.

ODA projects that the initial demand from PASSPORT consumers to choose to

direct their own personal care service will be slow: less than 1% of the current PASSPORT consumers for the remainder of this fiscal year and 3.6% of the PASSPORT consumers for the next fiscal year. Therefore, ODA projects that government-owned agency providers may see a minimal loss of caseload.

Additionally, because the PASSPORT program is growing as the population of seniors continues to increase, the government-owned agency providers may see no loss of consumers whatsoever.

When ODA refiled the rule on February 4, 2011, ODA proposed to amend the rule to require agency, non-agency, and assisted-living providers to be subject to a requirement that ODA had previously set for the consumer-directed individual providers (and consumer-directed personal care providers). The requirement was to participate in ODA's (and its designee's) mandatory provider training sessions. If the training requires travel to a training site, the government-owned provider could incur a cost of compliance to travel to the training site. If the training has a fee, the government-owned provider would incur the cost of compliance to pay the fee.

3. If the proposed rule is the result of a federal requirement, does the proposed rule exceed the scope and intent of the federal requirement? **No**
4. If the proposed rule exceeds the minimum necessary federal requirement, please provide an estimate of, and justification for, the excess costs that exceed the cost of the federal requirement. In particular, please provide an estimate of the excess costs that exceed the cost of the federal requirement for (a) school districts, (b) counties, (c) townships, and (d) municipal corporations.

Not Applicable.

5. Please provide a comprehensive cost estimate for the proposed rule that includes the procedure and method used for calculating the cost of compliance. This comprehensive cost estimate should identify all of the major cost categories including, but not limited to, (a) personnel costs, (b) new equipment or other capital costs, (c) operating costs, and (d) any indirect central service costs.

Although the proposed changes to this rule create no new "costs" for governments, there may be a minimal loss of market share for government-owned agencies that furnish personal care due to competition in the marketplace. (Please see item #2 on Part B of this RSFA.)

(a) Personnel Costs

The proposed changes to this rule create no new personnel costs for governments.

(b) New Equipment or Other Capital Costs

The proposed changes to this rule create no new equipment or other capital costs for governments.

(c) Operating Costs

The proposed changes to this rule create no new operating costs for governments.

(d) Any Indirect Central Service Costs

The proposed changes to this rule create no new indirect central service costs for governments.

(e) Other Costs

Although the proposed changes to this rule create no new "costs" for governments, there may be a minimal loss of market share for government-owned agencies that furnish personal care due to competition in the marketplace. (Please see item #2 on Part B of this RSFA.)

6. Please provide a written explanation of the agency's and the local government's ability to pay for the new requirements imposed by the proposed rule.

Although the proposed changes to this rule create no new "costs" for governments, there may be a minimal loss of market share for government-owned agencies that furnish personal care due to competition in the marketplace. (Please see item #2 on Part B of this RSFA.)

7. Please provide a statement on the proposed rule's impact on economic development.

ODA estimates that the adoption of this proposed new rule will have a positive impact upon economic development. The PASSPORT program provides in-home and community-based alternatives to Medicaid payment of nursing facilities.

Because participating in the PASSPORT program saves much taxpayer money in comparison to residing in a nursing facility, this lessens the need for entitlement spending, which, in turn, can lead to economic development.

By allowing the PASSPORT program's consumers to direct their personal care services, ODA is providing another option for consumers to choose other than the Medicaid payment of nursing facilities.