

173-40-03

**~~Eligibility, disenrollment~~Disenrollment, and appeals for from the PASSPORT grandparented eligibility home care program.**

~~(A) Any individual/consumer enrolled in the state funded PASSPORT grandparented eligibility home care program shall meet all eight of the following eligibility criteria:~~

~~(1) Immediately prior to enrollment in the PASSPORT grandparented eligibility home care program, the consumer must have been enrolled in the PASSPORT state home care program.~~

~~(2) Prior to initial enrollment in the PASSPORT grandparented home care program, and at least once every twelve months of enrollment thereafter, the consumer must apply for and be denied eligibility for either the PASSPORT home and community based services program described in Chapter 5101:3-31 of the Administrative Code, or the Ohio home care waiver described in Chapter 5101:3-12 of the Administrative Code, and:~~

~~(a) Consumers aged sixty and over must fully comply with the application and enrollment procedures for PASSPORT home and community based services program and must be determined to be ineligible for enrollment in the PASSPORT home and community based services program. Any consumer found to be eligible for enrollment in the PASSPORT home and community based services program shall be disenrolled from the PASSPORT grandparented eligibility home care program. A consumer's failure or refusal to cooperate in providing either the PASSPORT administrative agency (PAA) staff or county department of job and family services staff with information and/or documentation necessary to establish the consumer's eligibility for enrollment in the PASSPORT home and community based services program shall constitute a failure to meet this eligibility condition.~~

~~(b) Consumers aged fifty nine and under must fully comply with the application and enrollment procedures for Ohio home care waiver services and must be determined to be ineligible for enrollment in the Ohio home care waiver. Any consumer found to be eligible for enrollment in the Ohio home care waiver shall be disenrolled from the PASSPORT grandparented eligibility home care program. A consumer's failure or refusal to cooperate in providing the Ohio department of job and family services or county department of job and family services staff with information and/or documentation necessary to establish the consumer's eligibility for enrollment in the Ohio home care waiver shall constitute a failure to meet this eligibility condition.~~

~~(3) The consumer must be certified by the PAA and a physician as having an intermediate level of care as defined in rule 5101:3-3-06 of the Administrative Code, or a skilled level of care level of care as defined in rule~~

~~5101:3-3-07 of the Administrative Code.~~

~~(4) The consumer must be determined to be financially eligible for the PASSPORT grandparented eligibility home care program. Financial eligibility shall be based upon the consumer's documented inability to pay for nursing facility care without assistance from the medicaid program.~~

~~(a) For any consumer whose most recent period of continuous enrollment in the PASSPORT state home care program began prior to April 1, 1988, the consumer must document that the consumer lacks eleven thousand, seven hundred and nine dollars in income and assets available within a ninety day period to pay for nursing home care without assistance from the medicaid program.~~

~~(b) For any consumer whose most recent period of continuous enrollment in the PASSPORT state home care program began on or after April 1, 1988, the consumer must document that the consumer lacks five thousand, eight hundred, fifty four dollars and fifty cents in income and assets available within a forty five day period to pay for nursing facility care without assistance from the medicaid program.~~

~~Only the consumer's income and assets shall be considered when determining the consumer's financial eligibility for the PASSPORT grandparented eligibility home care program. Countable income and assets shall be determined pursuant to Chapter 5101:1-39 of the Administrative Code and chapter 7000 of the Ohio public assistance manual.~~

~~(5) The consumer must have an approved plan of care developed by the PAA that serves the county of the consumer's residence and the service plan must be signed by the consumer's physician, and approved by the PAA.~~

~~(6) The consumer's approved plan of care must indicate that the total projected cost of services counted in the care plan cost cap calculation is less than six thousand dollars for a six month period.~~

~~(7) The consumer must agree to receive PASSPORT funded services only from approved PASSPORT providers, and must agree to cooperate with PAA staff in establishing and re-establishing his eligibility for enrollment in the PASSPORT home and community based services program, the Ohio home care waiver, and/or the PASSPORT grandparented home care program, as requested by PAA staff.~~

~~(8) The consumer's participation in the PASSPORT grandparented eligibility home care program, as an alternative to nursing facility placement, must not present, in the professional judgment of PAA staff, a threat to the consumer's health and safety.~~

~~(B)~~(A) Whenever the PAA ~~staff conduct~~ conducts a re-assessment of the condition and service needs of a consumer enrolled in the PASSPORT grandparented ~~eligibility~~ home care program, the PAA staff shall verify whether the consumer continues to meet all ~~eight~~ eligibility criteria specified in ~~this~~ rule 173-40-02 of the Administrative Code.

~~(C)~~(B) ~~Consumers~~ The PAA shall re-assess consumers enrolled in the PASSPORT grandparented eligibility home care program ~~shall be re-assessed by PAA staff~~ to assess the consumer's condition and service needs at least once every twelve months or at any time the consumer's condition or service needs change substantially.

~~(D)~~(C) At least once every six months the PAA ~~staff~~ shall develop and implement a revised plan of care for every PASSPORT grandparented ~~eligibility~~ home care consumer who continues to meet all eligibility criteria.

~~(E)~~(D) ~~In accordance with this rule, the~~The PAA staff shall provide any grandparented consumer who fails to meet all the eligibility criteria in rule 173-40-02 of the Administrative Code with a written notice of intent to disenroll the consumer from the PASSPORT grandparented home care program.

~~(F)~~(E) Disenrollment from PASSPORT grandparented ~~eligibility~~ home care program

(1) The PAA staff may propose that any consumer in the PASSPORT grandparented ~~eligibility~~ home care program ~~for disenrollment be disenrolled~~ based upon any of the ~~consumer's failure to meet the eligibility criteria set forth in this rule, or as a result of the consumer's permanent relocation or death.~~following:

(a) The consumer's failure to meet the eligibility criteria set forth by rule 173-40-02 of the Administrative Code;

(b) The consumer's permanent relocation; or,

(c) The consumer's death.

(2) When a grandparented consumer's services are suspended for any reason for sixty calendar days, the PAA shall provide the consumer; (or the consumer's authorized representative, if any), with notice of disenrollment from the PASSPORT grandparented ~~eligibility~~ home care program.

(3) Suspensions which ultimately result in disenrollment shall have a disenrollment

date that is retroactive to the first day of the suspension of services.

~~(G)~~(F) Any consumer enrolled in the grandparented ~~eligibility~~ home care program may appeal a reduction in, suspension of, or disenrollment from the services received as an enrollee as follows:

- (1) The PAA ~~staff~~ shall explain any proposed reduction, suspension, or disenrollment action to the consumer directly affected (or to the consumer's authorized representative, if any). The PAA shall provide the explanation in writing and, ~~where~~ when feasible, orally as well, at least fifteen calendar days prior to the effective date of the proposed action. The PAA shall include in the written explanation an outline of the appeals process provided under this rule.
- (2) Any consumer (or authorized representative of an enrollee) who wishes to appeal a proposed PAA reduction in, suspension of, or disenrollment from the ~~state-funded~~ PASSPORT grandparented home care services received by the consumer shall provide the PAA with written notice of his intent to appeal ~~within~~ no less than fifteen calendar days ~~of~~ after the mailing date appearing on the PAA notice of the proposed action.
- (3) Whenever a written notice of intent to appeal has been properly received, the PAA shall continue the consumer's current plan of care pending the outcome of the appeal process.
- (4) ~~Within~~ No more than five working days ~~of~~ after the date upon which the PAA receives a timely written notice of appeal, the PAA shall schedule an informal fact-finding meeting with the consumer (and/or the consumer's authorized representative). The PAA shall notify the consumer (and/or the consumer's authorized representative, if any); of the date, time, and place of the meeting. ~~The~~ The PAA shall conduct the fact-finding meeting ~~shall be held~~ no more than ten working days ~~from~~ after the date on which the PAA received the written notice of the intent to appeal.
- (5) The PASSPORT site director or the site director's designee shall chair the informal fact-finding meeting and shall attempt to reach agreement between the consumer (and/or the consumer's authorized representative, if any); and any PAA staff relevant to the consumer's situation. The PASSPORT site director shall issue a written summary of the meeting to the consumer and/or the consumer's authorized representative, within five working days from the date of the meeting.
- (6) Should the consumer (or the consumer's authorized representative) wish to

continue ~~his~~ the appeal of the proposed action, he shall notify the director of ~~the Ohio department of aging (ODA)~~ ODA in writing ~~within no more than~~ fifteen working days ~~of~~ after the mailing date on the PASSPORT site director's written summary.

- (7) ~~Within~~ No more than five working days ~~of~~ after receiving a notice of intent to continue the appeal process, ODA shall schedule a formal appeal hearing and shall notify the PAA, and the consumer (and/or the consumer's authorized representative, if any); ~~of the date, time, and place of the appeal hearing. The appeal hearing ODA shall be held within~~ hold the appeal hearing no more than ten working days ~~of~~ after the date that ODA received the request to continue the appeal, unless otherwise agreed to by the parties involved.
- (8) Upon notice of appeal to ODA, the PAA shall immediately forward a copy of the written summary of the informal fact-finding meeting and any supporting documentation to ODA.
- (9) ~~The ODA appeal hearing shall be conducted by an An independent hearing officer who has been retained by ODA at ODA's expense shall conduct the ODA appeal hearing. Whenever possible, the hearing officer shall conduct the hearing appeal shall be conducted~~ in the consumer's home.
- (a) ~~The consumer and/or the consumer's authorized representative, if any, may be accompanied by any Any advocate or legal representative of the consumer's choosing may accompany the consumer (or the consumer's representative, if the consumer has a representative). The PAA shall be represented by any Any relevant PAA staff may represent the PAA.~~
- (b) The independent hearing officer shall incorporate the following elements when conducting the appeal hearing:
- (i) ~~The proceedings shall be recorded by the The hearing officer shall record the proceedings and may be recorded by any participant may record the proceedings;~~
- (ii) When convening the hearing, the hearing officer shall announce his name, his title, the date, the time, the location of the hearing, the appellant's name, the PAA(s) affected and present at the hearing, and the stated action being appealed;
- (iii) The hearing officer shall outline the process through which the consumer (or the consumer's authorized representative), the PAA,

and any other relevant participant may introduce verbal and/or written evidence;

(iv) The hearing officer may adjourn the appeal hearing at any time the participants become too disruptive to conduct a fair hearing, or at any time after all parties have been heard and the hearing officer determines that sufficient evidence exists to render a fair and appropriate recommendation.

(10) The independent hearing officer shall issue a written recommendation to the director of ODA. The recommendation shall either uphold the PAA action being appealed or shall recommend that the action be amended. The director of ODA shall issue a final decision on the matter ~~within~~ no more than thirty days ~~of~~ after the date upon which the hearing was held and shall inform the complainant and the PAA of the director's decision by certified mail. The director's decision shall be binding upon the PAA. Whenever the decision is to resume, increase, or reduce PASSPORT home care services, the PAA shall implement the decision upon receipt of the director's decision.

~~(H)~~(G) Should a consumer (or the consumer's authorized representative) wish to contest the decision of the director of ODA, the consumer (or the consumer's authorized representative) may pursue the complaint in a court of common pleas.

Effective: 01/01/2008

R.C. 119.032 review dates: 10/16/2007 and 10/15/2011

CERTIFIED ELECTRONICALLY

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Certification

12/21/2007

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Date

Promulgated Under: 111.15  
Statutory Authority: 173.02, uncodified section 213.20 of Am. Sub. H. B. No. 119 (127th G. A.)  
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