

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

Agency Name

Division

Tom Simmons

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173-40-03

Rule Number

AMENDMENT

TYPE of rule filing

Rule Title/Tag Line

Disenrollment and other adverse actions regarding the state-funded PASSPORT program.**RULE SUMMARY**1. Is the rule being filed for five year review (FYR)? **Yes**2. Are you proposing this rule as a result of recent legislation? **Yes**Bill Number: **HB64**General Assembly: **130**Sponsor: **Rep. Ryan Smith**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: **173.01, 173.02, 173.522**5. Statute(s) the rule, as filed, amplifies or implements: **173.522**

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

ODA is filing the rule as part of an end-of-the-year rule package for making miscellaneous updates. ODA proposes to align terminology in the rules with standard terminology. For more information on terminology, please review the attachment to this RSFA entitled "Appendix A: Terminology Background & Other Composition Standards."

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:

The rule determines the process for enrolling, disenrolling, and other actions related to enrolling or disenrolling into the state-funded component of the PASSPORT Program. ODA proposes to amend the rule to (1) align terminology in the rule with "Appendix A: Terminology Background & Other Composition Standards," (2) update the ODA's address in the rule, and (3) remove references to eligibility based upon losing Medicaid coverage because, effective September 29, 2015, Am. Sub. H. B. No. 64 (131st G. A.) deleted eligibility based upon loss of Medicaid from ORC§173.522.

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:

The rule references forms readily available to the general public, free of charge, on state agency websites.

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:

The rule references forms readily available to the general public, free of charge, on state agency websites.

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. If applicable, indicate each specific paragraph of the rule that has been modified:

Not Applicable.

12. Five Year Review (FYR) Date: **11/10/2016**

(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

Adopting the amendments ODA proposes for the rule would not impact the biennial budget the Ohio General Assembly established for ODA.

The elimination of one of the bases for being eligible for the program was first enacted by Am. Sub. H.B. 64, effective September 29, 2015, not this rule filing in 2016. The General Assembly factored in the change because both the eligibility amendment and the appropriations were in H.B. 64.

Additionally, the amendments would not impact ODA's biennial budget because the General Assembly appropriated the budget line item associated with this rule to ODM. Although ODA operates the state-funded component of the PASSPORT Program, H.B. No. 153 (129th G. A.) moved the program's funding to budget line items for the program to ODJFS. Subsequent legislation created ODM out of the Office of Medicaid in ODJFS.

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

GRF-651-525 Medicaid/Health Care Services.

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:

The adoption of the ODA's proposed amendments to the rule would not create a cost of compliance to any directly-affected person. The elimination of means to enroll a person who lost Medicaid eligibility was enacted by Am. Sub. H.B. 64 on September 29, 2015, not this rule filing in 2016.

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**

S.B. 2 (129th General Assembly) Questions

18. Has this rule been filed with the Common Sense Initiative Office pursuant to R.C. 121.82? **No**

19. Specific to this rule, answer the following:

A.) Does this rule require a license, permit, or any other prior authorization to engage in or operate a line of business? **No**

The rule does not regulate Ohio businesses. Instead, it addresses the enrollment process for individuals seeking enrollment into the state-funded component of the PASSPORT Program.

B.) Does this rule impose a criminal penalty, a civil penalty, or another sanction, or create a cause of action, for failure to comply with its terms? **No**

The rule does not regulate Ohio businesses. Instead, it addresses the enrollment process for individuals seeking enrollment into the state-funded component of the PASSPORT Program.

C.) Does this rule require specific expenditures or the report of information as a condition of compliance? **No**

The rule does not regulate Ohio businesses. Instead, it addresses the enrollment process for individuals seeking enrollment into the state-funded component of the PASSPORT Program.



Department of
Aging

John Kasich, Governor
Stephanie M. Loucka, Director

PUBLIC HEARING NOTICE MISCELLANEOUS UPDATES (NON-CSIO)

The Ohio Department of Aging (ODA) filed the following rule proposals with the Joint Committee for Agency Rule Review:

- 173-1-02 Public hearing notices for rule proposals.** The rule regulates ODA's public hearing notices for rule proposals. ODA proposes to amend the rule to align its terminology with Appendix A.¹
- 173-2-04 AAAs: currently-designated AAAs.** The rule identifies the names, addresses, and contact information (URL and toll-free number) of each entity ODA has currently designated to be an area agency on aging (AAA). ODA proposes to amend the rule to remove the post office box from AAA8's address, because AAA8 no longer maintains the PO Box.
- 173-3-01 Older Americans Act: introduction and definitions.** The rule introduces OAC Chapter 173-3 and defines terms used throughout the chapter. ODA proposes to amend the rule to add (1) a period to the end of the definition of "AAA-provider agreement" and (2) a missing comma into the definition of "consumer's signature."
- 173-38-01 Assisted living program (medicaid-funded component): introduction and definitions.** The rule introduces OAC Chapter 173-38 and defines terms used throughout the chapter. ODA proposes to amend the rule to (1) replace OAC5160:1-1-55.1 with OAC5160-1-33 to correspond to ODM's proposed change of rule numbers and (2) to revise the date of ODJFS's latest version of Form JFS07200.
- 173-40-01 PASSPORT program (state-funded component): introduction and definitions.** The rule introduces OAC Chapter 173-40 and defines terms used throughout the chapter. ODA proposes to amend the rule to (1) replace OAC5160:1-1-55.1 with OAC5160-1-33 to correspond to ODM's proposed change of rule numbers and (2) to revise the date of ODJFS's latest version of Form JFS07200.
- 173-40-02 PASSPORT program (state-funded component): individual eligibility requirements.** The rule lists the eligibility requirements for individuals seeking to enroll into the state-funded component of the PASSPORT Program. ODA proposes to amend the rule to (1) align terminology in the rule with Appendix A, (2) use new ODM rule numbers that replaced older ODJFS rule numbers, and (3) remove references to eligibility based upon losing Medicaid coverage because, in 2015, Am. Sub. H. B. No. 64 (131st G. A.) deleted eligibility based upon loss of Medicaid from ORC§173.522.
- 173-40-03 PASSPORT program (state-funded component): individual enrollment, disenrollment, and other actions.** The rule determines the process for enrolling, disenrolling, and other actions related to enrolling or

¹ ODA attached a copy of *Appendix A: Terminology Background & Other Composition Standards* to the rule summary and fiscal analysis (RSFA) for each rule in which ODA proposes aligning terminology with the appendix.

disenrolling into the state-funded component of the PASSPORT Program. ODA proposes to amend the rule to (1) align terminology in the rule with Appendix A, (2) update the ODA's address in the rule, and (3) remove references to eligibility based upon losing Medicaid coverage because, in 2015, Am. Sub. H. B. No. 64 (131st G. A.) deleted eligibility based upon loss of Medicaid from ORC§173.522.

- 173-40-05 PASSPORT program (state-funded component): covered services.** The rule references an ODM rule for the Medicaid-funded component of the PASSPORT Program and declares any service covered under the Medicaid-funded component is also covered under the state-funded component if authorized by the individual's service plan. ODA proposes to amend the rule to align terminology with Appendix A.
- 173-40-06 PASSPORT program (state-funded component): individual's choices and responsibilities.** The rule declares every individual enrolled in the state-funded component of the PASSPORT Program may choose which providers provide goods and services to him or her from a list of willing and qualified providers. The rule also requires individuals to meet requirements in order to direct (*i.e.*, employ) a participant-directed provider. The rule is a mirror of rule OAC173-42-06 for the Medicaid-funded component of the PASSPORT Program. ODA proposes to rescind this rule and replace it with a new rule. The new rule will only say, "An individual enrolled in the state-funded component of the PASSPORT program has the same choices and responsibilities as rule 173-42-06 of the Administrative Code gives to an individual enrolled in the Medicaid-funded component of the PASSPORT program."
- 173-42-01 PASSPORT program (medicaid-funded component): introduction and definitions.** The rule introduces OAC Chapter 173-42 and defines terms used throughout the chapter. ODA proposes to amend the rule to (1) replace OAC5160:1-1-55.1 with OAC5160-1-33 to correspond to ODM's proposed change of rule numbers and (2) to revise the date of ODJFS's latest version of Form JFS07200.
- 173-51-01 Assisted living program (state-funded component): introduction and definitions.** The rule introduces OAC Chapter 173-51s and defines terms used throughout the chapter. ODA proposes to amend the rule to (1) replace OAC5160:1-1-55.1 with OAC5160-1-33 to correspond to ODM's proposed change of rule numbers and (2) to revise the date of ODJFS's latest version of Form JFS07200.

ODA will conduct a public hearing on the proposed amendments at the following place and time:

**Ohio Department of Aging
246 N. High St., First Floor; Room 1149**

December 12, 2016 at 10:00AM

Any person is welcome to participate in the public hearing.