

Rule Summary and Fiscal Analysis

Part A - General Questions

Rule Number: 173-40-03

Rule Type: Amendment

Rule Title/Tagline: PASSPORT program (state-funded component): individual disenrollment and other actions.

Agency Name: Department of Aging

Division:

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I. Rule Summary

1. **Is this a five year rule review?** Yes
 - A. **What is the rule's five year review date?** 11/30/2021
2. **Is this rule the result of recent legislation?** No
3. **What statute is this rule being promulgated under?** 111.15
4. **What statute(s) grant rule writing authority?** 121.07, 173.01, 173.02, 173.522
5. **What statute(s) does the rule implement or amplify?** 173.522
6. **What are the reasons for proposing the rule?**

This rule exists to establish the process for disenrolling an individual from the state-funded component of the PASSPORT Program and other actions.

7. **Summarize the rule's content, and if this is an amended rule, also summarize the rule's changes.**

This rule establishes the process for disenrolling an individual from the state-funded component of the PASSPORT Program and other actions.

ODA proposes to amend this rule to achieve the following:

1. Indicate that the moratorium on disenrollment during a state of emergency declared by the governor also applies during a federal public health emergency.
2. Remove or replace words that imply requirements for outdated modes of communication or in-person interaction (e.g., "print," "mailing," "signed," "written").
3. Comply with LSC's Rule Drafting Manual by eliminating the period in the cross-references to chapters of the Revised Code.
4. Replace "approves" with "approved" in paragraphs (A)(2)(a) and (A)(2)(b) of this rule.
5. Refer to the potential for the director to have approved an extension to the maximum enrollment periods in paragraph (A)(4)(a)(iv) of this rule.
6. Insert ", or to disenroll the individual from," into paragraph (B)(5)(a)(i) of this rule after "To deny the individual's enrollment into."
7. Replace occurrences of ODA's address with "the address listed on the form."

8. **Does the rule incorporate material by reference? Yes**
9. **If the rule incorporates material by reference and the agency claims the material is exempt pursuant to R.C. 121.75, please explain the basis for the exemption and how an individual can find the referenced material.**

Please see the incorporation by reference information for rule 173-40-01 of the Administrative Code to find the forms referenced by this rule that are defined by that rule.

10. **If revising or re-filing the rule, please indicate the changes made in the revised or re-filed version of the rule.**

ODA refiled this rule to achieve the goals listed in the refile on 04/28/2022.

04/28/2022 ODA refiled this rule to achieve the following:

1. *Insert "if federal financial participation pays for all of the individual's services" to paragraph (A)(1) of this rule after the proposed amendment to add the words "or during a federal public health emergency."*

2. Replace paragraphs (A)(2), (A)(4), (B)(3), and (B)(5) [including any sub-paragraphs to those paragraphs] with paragraph (C) because the former paragraphs are superseded by section 173.523 of the Revised Code and this rule does not need to repeat that section.

3. Reword paragraphs (A)(3) [proposed to be (A)(2)] [including sub-paragraphs], (B)(1) [including sub-paragraphs], (B)(2)(c), and (B)(4) [proposed to be (B)(3)] [including sub-paragraphs] to reduce the unnecessary use of regulatory restrictions from the rule.

II. Fiscal Analysis

11. **Please estimate the increase / decrease in the agency's revenues or expenditures in the current biennium due to this rule.**

This will have no impact on revenues or expenditures.

\$0.00

Adopting the proposed amendments to this rule will not affect the biennial budget that the Ohio General Assembly established for ODA in H.B. 110 (134th G.A.).

12. **What are the estimated costs of compliance for all persons and/or organizations directly affected by the rule?**

Adopting the proposed amendments to this rule will not create any cost of compliance to any directly-affected person or organization.

13. **Does the rule increase local government costs? (If yes, you must complete an RSFA Part B). No**

14. **Does the rule regulate environmental protection? (If yes, you must complete an RSFA Part C). No**

15. **If the rule imposes a regulation fee, explain how the fee directly relates to your agency's cost in regulating the individual or business.**

Not Applicable

III. Common Sense Initiative (CSI) Questions

16. **Was this rule filed with the Common Sense Initiative Office? No**

17. **Does this rule have an adverse impact on business? No**

- A. Does this rule require a license, permit, or any other prior authorization to engage in or operate a line of business? No
- 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
- C. Does this rule require specific expenditures or the report of information as a condition of compliance? No
- D. Is it likely that the rule will directly reduce the revenue or increase the expenses of the lines of business of which it will apply or applies? No

IV. Regulatory Restrictions (This section only applies to agencies indicated in R.C. 121.95 (A))

18. Are you adding a new or removing an existing regulatory restriction as defined in R.C. 121.95? Yes

A. How many new regulatory restrictions do you propose adding? 1

(B)(1) ODA or its designee SHALL do all of the following:

B. How many existing regulatory restrictions do you propose removing? 28

(B)(2) ODA or its designee SHALL NOT provide the individual with an opportunity for a hearing....

(A)(3)(a) [proposed to be (A)(2)(a)] ODA or its designee SHALL NOT subsequently re-enroll the individual back into the state-funded component of the PASSPORT program....

(A)(3)(b) [proposed to be (A)(2)(b)] ODA or its designee SHALL NOT subsequently enroll the individual into the medicaid-funded component of the PASSPORT program....

(A)(3)(c) [proposed to be (A)(2)(c)] ODA or its designee SHALL NOT subsequently enroll the individual into the state-funded component of the assisted living program.

(A)(4)(a) ODA or its designee SHALL provide form ODA1117 to an individual....

(A)(4)(a)(ii) To REQUIRE the individual to pay a specified PETI....

(A)(4)(b) On form ODA1117, ODA or its designee SHALL provide notice of an individual's opportunity to appeal....

(A)(4)(b) ODA or its designee SHALL also print a mailing date on the form.

(A)(4)(c) ...the individual SHALL request a hearing.

(A)(4)(c) To request a hearing, the individual SHALL sign form ODA1117 and mail the signed form to ODA....

(A)(4)(d) In order for ODA to accept the request for a hearing, ODA SHALL have received the original....

(A)(4)(d) ..., ODA SHALL proceed with a final order containing findings.

(B)(1)(a) Whenever ODA or its designee reassesses the condition and service needs of the individual, ODA or its designee SHALL verify....

(B)(1)(b) ODA or its designee SHALL reassess....

(B)(1)(c) At least once every six months ODA or its designee SHALL develop....

(B)(1)(d) If the individual doe snot continue to meet all the eligibility requirements under..., ODA or its designee SHALL provide....

(B)(2)(c) Suspensions which ultimately result in disenrollment SHALL have a disenrollment date....

(B)(3) ODA or its designee SHALL NOT provide the individual with an opportunity for a hearing....

(B)(4)(a) [proposed to be (B)(3)(a)] After ODA or its designee disenrolls the individual from the state-funded component of the PASSPORT program, ODA or its designee SHALL NOT subsequently re-enroll the individual back into the state-funded component of the PASSPORT program on the basis of presumptive eligibility.

(B)(4)(b) [proposed to be (B)(3)(b)] After ODA or its designee disenrolls the individual from the state-funded component of the PASSPORT program, ODA or its designee SHALL NOT subsequently enroll the individual into the state-funded component of the assisted living program.

(B)(5)(a) ODA or its designee SHALL provide form ODA1117 to an individual....

(B)(5)(a)(ii) To REQUIRE the individual to pay a specified patient-liability amount each month.

(B)(5)(b) ..., ODA or its designee SHALL provide notice of an individual's opportunity to appeal....

(B)(5)(b) ODA or its designee SHALL also print a mailing date on the form.

(B)(5)(c) If an individual wishes to appeal ODA's or its designee's proposed adverse action, the individual SHALL request a hearing.

(B)(5)(c) To request a hearing, the individual SHALL sign form ODA1117 and mail the signed form to ODA....

(B)(5)(d) In order for ODA to accept the request for a hearing ODA SHALL have received the original signed form ODA1117 in its office....

(B)(5)(d) If ODA does not receive the original signed form on or before the thirtieth day, ODA SHALL proceed with a final order containing findings.