

173-40-03

Disenrollment from and other adverse actions regarding the state-funded PASSPORT program.

(A) Presumptive: For each consumer who is enrolled in the state-funded component of the PASSPORT program on the basis of paragraph (A) of rule 173-40-02 of the Administrative Code:

(1) Disenrollment: ODA (or ODA's designee) shall disenroll any consumer who no longer meets all the criteria under paragraph (A) of rule 173-40-02 of the Administrative Code unless the only criterion the consumer no longer meets is the patient-liability criterion listed in paragraph (A)(5) of the rule.

(2) No appeals: ODA (or ODA's designee) shall not provide the consumer with an opportunity for a hearing in accordance with Chapter 119. of the Revised Code if ODA (or ODA's designee) disenrolls a consumer for any of the following reasons:

(a) The consumer has been enrolled in the state-funded component of the PASSPORT program under the criteria of paragraph (A) of rule 173-40-02 of the Administrative Code for the maximum enrollment period of ninety days; or,

(b) The consumer voluntarily disenrolled from the state-funded component of the PASSPORT program under the criteria of paragraph (A) of rule 173-40-02 of the Administrative Code before reaching the maximum enrollment period of ninety days.

~~(2) Appeals: ODA shall provide notice and an opportunity for a hearing in accordance with Chapter 119. of the Revised Code to any individual whose application for state-funded component of the PASSPORT program whose applications is denied, or whose participation in the state-funded component of the PASSPORT program is terminated before three months of enrollment has elapsed.~~

(3) Post-disenrollment prohibitions:

(a) After ODA (or ODA's designee) disenrolls a consumer from the state-funded component of the PASSPORT program, ODA (or ODA's designee) shall not subsequently re-enroll the consumer back into the state-funded component of the PASSPORT program on the basis of presumptive eligibility.

(b) After ODA (or ODA's designee) disenrolls a consumer from the state-funded component of the PASSPORT program, ODA (or ODA's designee) shall not subsequently enroll the consumer into the

medicaid-funded component of the PASSPORT program until the CDJFS determines that the consumer meets the medicaid financial eligibility criteria and ODA (or ODA's designee) determines that the consumer meets the non-financial eligibility criteria under rule 5101:3-31-03 of the Administrative Code.

- (c) After ODA (or ODA's designee) disenrolls a consumer from the state-funded component of the PASSPORT program, ODA (or ODA's designee) shall not subsequently enroll the consumer into the state-funded component of the assisted living program.

(4) Appeals:

(a) ODA (or ODA's designee) shall provide form ODA1117 to an individual as a notice of a proposed adverse action against the individual, if ODA (or ODA's designee) proposes any of the following:

(i) To deny the individual's enrollment into the state-funded component of the PASSPORT program under the criteria of paragraph (A) of rule 173-40-02 of the Administrative Code;

(ii) To require the consumer to pay a specified patient-liability amount each month;

(iii) To change the services the consumer receives through the program;
or,

(iv) To disenroll the consumer from the program before the consumer reaches the maximum enrollment period of ninety days, unless the consumer voluntarily disenrolls from the program.

(b) On form ODA1117, ODA (or ODA's designee) shall provide notice of an individual's opportunity to appeal the proposed adverse action by requesting a hearing in accordance with Chapter 119. of the Revised Code. ODA (or ODA's designee) shall also print a mailing date on the form.

(c) If an individual wishes to appeal ODA's (or ODA's designee's) proposed adverse action, the individual shall request a hearing. To request a hearing, the individual shall sign form ODA1117 and mail the signed form to ODA, addressed as follows:

Director

Ohio Dept. of Aging

50 W. Broad St., 9th Floor

Columbus, OH 43215

- (d) In order for ODA to accept the request for a hearing, ODA must receive the original signed form ODA1117 in its office before five p.m. on or before the thirtieth day after ODA (or ODA's designee) mailed form ODA1117 to the individual. If ODA does not receive the original signed form on or before the thirtieth day, ODA will proceed with a final order that contains findings.
- (B) Loss of medicaid financial eligibility: For each consumer who is enrolled in the state-funded component of the PASSPORT program on the basis of paragraph (B) of rule 173-40-02 of the Administrative Code:
- (1) Disenrollment: ODA (or ODA's designee) shall disenroll any consumer who no longer meets all the criteria under paragraph (B) of rule 173-40-02 of the Administrative Code unless the only criterion the consumer no longer meets is the patient-liability criterion listed in paragraph (B)(3) of the rule.
 - (2) No appeals: ODA (or ODA's designee) shall not provide the consumer with an opportunity for a hearing in accordance with Chapter 119. of the Revised Code if ODA (or ODA's designee) disenrolls a consumer for any of the following reasons:
 - (a) The consumer has been enrolled in the state-funded component of the PASSPORT program under the criteria of paragraph (B) of rule 173-40-02 of the Administrative Code for the maximum enrollment period of ninety days; or,
 - (b) The consumer voluntarily disenrolled from the state-funded component of the PASSPORT program under the criteria of paragraph (B) of rule 173-40-02 of the Administrative Code before reaching the maximum enrollment period of ninety days.
- ~~(2) Appeals: ODA shall provide notice and an opportunity for a hearing in accordance with Chapter 119. of the Revised Code to any individual whose application for state-funded component of the PASSPORT program whose applications is denied, or whose participation in the state-funded component of the PASSPORT program is terminated before thirty days of enrollment has elapsed.~~
- (3) Post-disenrollment prohibitions:

- (a) After ODA (or ODA's designee) disenrolls a consumer from the state-funded component of the PASSPORT program, ODA (or ODA's designee) shall not subsequently re-enroll the consumer back into the state-funded component of the PASSPORT program on the basis of presumptive eligibility.
- (b) After ODA (or ODA's designee) disenrolls a consumer from the state-funded component of the PASSPORT program, ODA (or ODA's designee) shall not subsequently enroll the consumer into the state-funded component of the assisted living program.

(4) Appeals:

- (a) ODA (or ODA's designee) shall provide form ODA1117 to an individual as a notice of a proposed adverse action against the individual, if ODA (or ODA's designee) proposes any of the following:
 - (i) To deny the individual's enrollment into the state-funded component of the PASSPORT program under the criteria of paragraph (B) of rule 173-40-02 of the Administrative Code;
 - (ii) To require the consumer to pay a specified patient-liability amount each month;
 - (iii) To change the services the consumer receives through the program;
or,
 - (iv) To disenroll the consumer from the program before the consumer reaches the maximum enrollment period of ninety days, unless the consumer voluntarily disenrolls from the program.
- (b) On form ODA1117, ODA (or ODA's designee) shall provide notice of an individual's opportunity to appeal the proposed adverse action by requesting a hearing in accordance with Chapter 119. of the Revised Code. ODA (or ODA's designee) shall also print a mailing date on the form.
- (c) If an individual wishes to appeal ODA's (or ODA's designee's) proposed adverse action, the individual shall request a hearing. To request a hearing, the individual shall sign form ODA1117 and mail the signed form to ODA, addressed as follows:

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(d) In order for ODA to accept the request for a hearing, ODA must receive the original signed form ODA1117 in its office before five p.m. on or before the thirtieth day after ODA (or ODA's designee) mailed form ODA1117 to the individual. If ODA does not receive the original signed form on or before the thirtieth day, ODA will proceed with a final order that contains findings.

(C) Grandparented: For a consumer who is enrolled in the state-funded component of the PASSPORT program on the basis of paragraph (C) of rule 173-40-02 of the Administrative Code:

(1) Reassessment:

(a) Whenever ODA (or ODA's designee) reassesses the condition and service needs of a consumer, ODA (or ODA's designee) shall verify if the consumer continues to meet all eligibility criteria under paragraph (C) of rule 173-40-02 of the Administrative Code.

(b) ODA (or ODA's designee) shall reassess each consumer 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.

(c) At least once every six months ODA (or ODA's designee) shall develop and implement a revised service plan for each consumer so long as the consumer continues to meet all the eligibility criteria under paragraph (C) of rule 173-40-02 of the Administrative Code.

(d) If a consumer does not continue to meet all the eligibility criteria under paragraph (C) of rule 173-40-02 of the Administrative Code, ODA (or ODA's designee) shall provide the consumer with a written notice of intent to disenroll the consumer from the state-funded component of the PASSPORT program.

(2) Disenrollment:

(a) ODA (or ODA's designee) may propose that any consumer in the state-funded component of the PASSPORT program be disenrolled

based upon any of the following:

(i) The consumer does not continue to meet all the eligibility criteria under paragraph (C) of rule 173-40-02 of the Administrative Code;

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

(iii) The consumer's death.

(b) When a consumer's services are suspended for any reason for sixty calendar days, ODA (or ODA's designee) shall provide the consumer (or the consumer's authorized representative, if any), with notice of disenrollment from the state-funded component of the PASSPORT program.

(c) Suspensions which ultimately result in disenrollment shall have a disenrollment date that is retroactive to the first day of the suspension of services.

(3) No appeals: ODA (or ODA's designee) shall not provide the consumer with an opportunity for a hearing in accordance with Chapter 119. of the Revised Code if ODA (or ODA's designee) disenrolls a consumer if the consumer voluntarily disenrolled from the state-funded component of the PASSPORT program under the criteria of paragraph (C) of rule 173-40-02 of the Administrative Code.

~~(3) Appeals: Any consumer may appeal a reduction in, suspension of, or disenrollment from the services received as a consumer as follows:~~

~~(a) ODA's designee shall explain any proposed reduction, suspension, or disenrollment action to the consumer (or to the consumer's authorized representative, if any). ODA's designee shall provide the explanation in writing and, when feasible, orally as well, at least fifteen calendar days before the effective date of the proposed action. ODA's designee shall include in the written explanation an outline of the appeals process provided under this rule.~~

~~(b) The consumer (or the consumer's authorized representative, if any) who wishes to appeal a proposed reduction in home and community-based services through the state-funded component of the PASSPORT program, or the suspension of, or disenrollment from, the state-funded component of the PASSPORT program shall provide ODA's designee with written notice of his intent to appeal no more than fifteen calendar~~

~~days after the mailing date appearing on the notice of the proposed action.~~

- ~~(e) If a written notice of intent to appeal has been properly received, ODA's designee shall continue the consumer's current service plan pending the outcome of the appeal process.~~
- ~~(d) No more than five working days after the date upon which ODA's designee receives a timely written notice of appeal, ODA's designee shall schedule an informal fact finding meeting with the consumer (and/or the consumer's authorized representative, if any). ODA's designee shall notify the consumer (and/or the consumer's authorized representative, if any) of the date, time, and place of the meeting. ODA's designee shall conduct the fact finding meeting no more than ten working days after the date on which ODA's designee received the written notice of the intent to appeal.~~
- ~~(e) ODA's designee's 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 of ODA's designee's staff who are 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, if any), in fewer than five working days after the date of the meeting.~~
- ~~(f) If the consumer (or the consumer's authorized representative, if any) wishes to continue the appeal of the proposed action, the consumer shall notify the director of ODA in writing no more than fifteen working days after the mailing date on the PASSPORT site director's written summary.~~
- ~~(g) No more than five working days after receiving a notice of intent to continue the appeal process, ODA shall schedule a formal appeal hearing and shall notify ODA's designee and the consumer (and/or the consumer's authorized representative, if any) of the date, time, and place of the appeal hearing. ODA shall hold the appeal hearing no more than ten working days after the date that ODA received the request to continue the appeal, unless otherwise agreed to by the parties involved.~~
- ~~(h) Upon notice of appeal to ODA, ODA's designee shall immediately forward a copy of the written summary of the informal fact finding meeting and any supporting documentation to ODA.~~
- ~~(i) An independent hearing officer who has been retained by ODA at ODA's expense shall conduct the ODA appeal hearing. If possible, the hearing~~

~~officer shall conduct the hearing in the consumer's home.~~

~~(i) Any advocate or legal representative of the consumer's choosing may accompany the consumer (or the consumer's authorized representative, if any). Any of ODA's designee's relevant staff may represent ODA's designee.~~

~~(ii) The independent hearing officer shall incorporate the following elements when conducting the appeal hearing:~~

~~(a) The hearing officer shall record the proceedings and any participant may record the proceedings;~~

~~(b) 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, any of ODA's designees affected and present at the hearing, and the stated action being appealed;~~

~~(c) The hearing officer shall outline the process through which the consumer (or the consumer's authorized representative, if any), ODA's designee, and any other relevant participant may introduce verbal and/or written evidence;~~

~~(d) 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.~~

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

~~(4) Further appeals: If a consumer (or the consumer's authorized representative, if any) wishes to contest the decision of the director of ODA, the consumer (or the consumer's authorized representative, if any) may pursue the complaint in a court of common pleas.~~

~~(5)~~(4) Post-disenrollment prohibitions:

- (a) After ODA (or ODA's designee) disenrolls a consumer from the state-funded component of the PASSPORT program, ODA (or ODA's designee) shall not subsequently re-enroll the consumer back into the state-funded component of the PASSPORT program on the basis of presumptive eligibility.
- (b) After ODA (or ODA's designee) disenrolls a consumer from the state-funded component of the PASSPORT program, ODA (or ODA's designee) shall not subsequently enroll the consumer into the state-funded component of the assisted living program.

(5) Appeals:

- (a) ODA (or ODA's designee) shall provide form ODA1117 to an individual as a notice of a proposed adverse action against the individual, if ODA (or ODA's designee) proposes any of the following:
 - (i) To deny the individual's enrollment into the state-funded component of the PASSPORT program under the criteria of paragraph (C) of rule 173-40-02 of the Administrative Code;
 - (ii) To require the consumer to pay a specified patient-liability amount each month; or,
 - (iii) To change the services the consumer receives through the program.
- (b) On form ODA1117, ODA (or ODA's designee) shall provide notice of an individual's opportunity to appeal the proposed adverse action by requesting a hearing in accordance with Chapter 119. of the Revised Code. ODA (or ODA's designee) shall also print a mailing date on the form.
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Effective:

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Certification

Date

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