

## Rule Summary and Fiscal Analysis

### Part A - General Questions

**Rule Number:** 173-40-05

**Rule Type:** Rescission

**Rule Title/Tagline:** PASSPORT program (state-funded component): covered services.

**Agency Name:** Department of Aging

**Division:**

**Address:** 246 N. High St. 1st Floor Columbus OH 43215-2046

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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? 11/29/2022
2. Is this rule the result of recent legislation? Yes
  - A. If so, what is the bill number, General Assembly and Sponsor? SB 9 - 134 - Roegner
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. Does the rule implement a federal law or rule in a manner that is more stringent or burdensome than the federal law or regulation requires? No
  - A. If so, what is the citation to the federal law or rule? Not Applicable
7. What are the reasons for proposing the rule?

This rule exists to establish the services that are coverable for individuals who are enrolled in the state-funded component of the PASSPORT Program.

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

This rule establishes the services that are coverable for individuals who are enrolled in the state-funded component of the PASSPORT Program.

ODA proposes to rescind this rule and simultaneously adopt a substantially-similar new rule to replace it that does not contain the unnecessary regulatory restrictions ("shall" and "shall not") found in the current rule. (cf., R.C. §§ 121.95 and 121.951)

- 9. Does the rule incorporate material by reference? No**
- 10. 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.**

*Not Applicable*

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

*Not Applicable*

## **II. Fiscal Analysis**

- 12. 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

Not Applicable

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

Adopting a proposed new rule to replace this substantially-similar rule will not create any cost of compliance to any directly-affected person or organization.

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

15. Does the rule regulate environmental protection? (If yes, you must complete an RSFA Part C). No
16. 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**

17. Was this rule filed with the Common Sense Initiative Office? Yes
18. 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

This rule indicates that the state-funded component of the PASSPORT Program does not pay providers for unauthorized services. This should not reduce a provider's revenue because no reasonable person would expect a program to pay for services without an authorization or requirement to do so.

### **IV. Regulatory Restriction Requirements under S.B. 9. Note: This section only applies to agencies described in R.C. 121.95(A).**

19. 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 to this rule? 0

**B. How many existing regulatory restrictions do you propose removing from this rule? 2**

1. (a) The service plan for an individual enrolled in the state-funded component of the PASSPORT program SHALL only authorize services allowed under rule 5160-31-05 of the Administrative Code for the medicaid-funded component of the PASSPORT program.

2. (B) While a provider may provide an individual enrolled in the state-funded component of the PASSPORT program with a service not authorized in the individual's service plan, ODA or its designee SHALL NOT pay a provider for any service not explicitly authorized in the individual's service plan.

**C. If you are not removing existing regulatory restrictions from this rule, please list the rule number(s) from which you are removing restrictions.**

**D. Please justify the adoption of the new regulatory restriction(s).**

Not Applicable