

Rule Summary and Fiscal Analysis

Part A - General Questions

Rule Number: 173-42-06

Rule Type: New

Rule Title/Tagline: PASSPORT program (medicaid-funded component): individuals' choices and responsibilities.

Agency Name: Department of Aging

Division:

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I. Rule Summary

1. Is this a five year rule review? No
 - A. What is the rule's five year review date?
2. Is this rule the result of recent legislation? No
3. What statute is this rule being promulgated under? 119.03
4. What statute(s) grant rule writing authority? 173.01, 173.02, 173.52
5. What statute(s) does the rule implement or amplify? 173.52; 42 C.F.R. 431.51
6. What are the reasons for proposing the rule?

This rule filing is the result of a 5-year review of rules 173-40-06 and 173-42-06.

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

This rule establishes the choices and responsibilities of individuals enrolled in the Medicaid-funded component of the PASSPORT Program and includes responsibilities for ODA's designee to complete related to those choices and responsibilities.

Compared to the rule this new rule will replace, ODA's proposed new rule would do all of the following:

1. Present topics in a new order.
2. Update terminology throughout the rule (e.g., "furnish" --> "provide," "consumer" --> "individual").
3. Require ODA's designee, not a case manager, to complete the requirements in this rule that are not the responsibility of the individual to complete.
4. Require, when drafting the person-centered services plan with the individual, ODA's designee to draft the plan in plain English, list where the individual chooses to live while receiving services, and include any additional information required by 5160-44-02.
5. Reiterate the requirement in 5160-44-02 for ODA's designee to give electronic or paper copies of the plan (once developed) to the individual, the individual's team, and the providers authorized by the plan.
6. Require the individual to cooperate with, and show respect to, ODA's designee to facilitate assessing the individual; recruiting, selecting, and dismissing the individual's providers; and developing and maintaining backup-plans.
7. Require the individual to treat providers with respect.
8. Require the individual to work with ODA's designee to resolve problems and concerns.
- 8. Does the rule incorporate material by reference? No**
- 9. If the rule incorporates material by reference and the agency claims the material is exempt pursuant to R.C. 121.71 to 121.76, please explain the basis for the exemption and how an individual can find the referenced material.**

Not Applicable

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

On November 15, 2019, ODA made a revised filing of the rule to achieve the following:

1. Replace "Responsibility" in (D)(2) with "Responsibilities."

2. Indicate that the responsibility for individuals in (B)(7) applies only when individuals receive services from participant-directed providers.

3. Indicate in (B)(8), (C)(1)(c)(xi), and (D)(2)(f) that, *if* rule 5160-1-40 requires using EVV, an individual would be required to (1) use the provider's chosen EVV method, (2) be able to demonstrate and understanding of using EVV before directing a participant-directed provider, and (3) work with ODA's designee on using EVV.

II. Fiscal Analysis

- 11. As a result of this proposed rule, please estimate the increase / decrease in revenues or expenditures affecting this agency, or the state generally, in the current biennium or future years. If the proposed rule is likely to have a different fiscal effect in future years, please describe the expected difference and operation.**

This will have no impact on revenues or expenditures.

\$0.00

Adopting this new rule will have no impact upon the biennial budget the Ohio General Assembly established for ODA in H.B. 166 (133rd G.A), especially because it will replace the current rule of the same number which ODA simultaneously proposes to rescind.

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

Adopting this new rule will create no cost of compliance to any person or organization directly-affected by this rule. The new rule does not contain any new requirements for ODA's designee that are not present in the current rule, 5160-1-40, or 5160-44-02. The new rule's requirements for the individual to treat ODA's designee and providers with respect, to cooperate with ODA's designee, and to work with ODA's designee to resolve problems should not create a quantifiable cost to the individual.

- 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**

III. Common Sense Initiative (CSI) Questions

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

16. 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**

This rule does not regulate any Ohio business.

- 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**

This rule does not regulate any Ohio business.

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

This rule does not regulate any Ohio business.