

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

Agency Name

Division

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173-50-02

Rule Number

NEW

TYPE of rule filing

Rule Title/Tag Line

Eligibility criteria.**RULE SUMMARY**

1. Is the rule being filed consistent with the requirements of the RC 119.032 review? **No**

2. Are you proposing this rule as a result of recent legislation? **Yes**

Bill Number: **HB66**General Assembly: **126**Sponsor: **Calvert**

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: **173.02, 173.50**

5. Statute(s) the rule, as filed, amplifies or implements: **173.50**

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

In response to Am. Sub. H. B. No. 66 (126th G. A.), this proposed new rule is being filed to establish criteria used to determine the eligibility of an individual for the Program of All-inclusive Care for the Elderly (PACE).

On March 21, 2007, ODA posted a draft of the proposed new rule for a two-week-long public comment period. After considering the input received from that period, ODA is now proceeding with the filing of this proposed new rule.

Pursuant to section 173.50 of the Revised Code, ODA may only adopt this rule

once ODJFS had adopted a rule granting ODA the authority to do so. At the time of the refiling of this rule, ODJFS has filed such a proposed new rule.

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:

This proposed new rule establishes the criteria used to determine the eligibility of an individual for the Program of All-inclusive Care for the Elderly (PACE). This rule also provides cross references to rule 173-50-05 of the Administrative Code and 42 C.F.R. 460.186 so that readers may know what where to read on the topic of eligibility once the person is no longer eligible for Medicaid financing of their enrollment in the program.

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:

This response left blank because filer specified online that the rule does not incorporate a text or other material by reference.

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:

This response left blank because filer specified online that the rule does not incorporate a text or other material by reference.

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:

On the morning of October 1, 2008, ODA refiled this proposed new rule with the following changes:

1. The formatting of the rule was changed so that the unnumbered paragraph became paragraph (A) and the rest of the rule followed suit.
2. The language in paragraphs (C)(1) and (C)(2) of the rule was combined into one paragraph and renumbered paragraph (B).
3. Paragraph (C) of the rule was added to provide cross references to rule 173-50-05 of the Administrative Code and 42 C.F.R. 460.186 so that readers may know what where to read on the topic of eligibility once the person is no longer eligible for Medicaid financing of their enrollment in the program.
4. Paragraph (A)(8) of the rule, previously paragraph (H) of the rule, once excluded persons enrolled in a list of programs from eligibility in PACE. Now, it excludes excludes persons enrolled in those programs unless the persons discontinue enrollment in those programs in order to transfer into PACE. This was the original intention of the paragraph, so this is just a clarification. Because a participant in PACE must receive all services from PACE, ODA's goal is to exclude persons receiving services through other programs from also receiving services through PACE, not to prevent a person from transferring out of one program into PACE.
5. In paragraph (A)(4) of the rule, formerly paragraph (D) of the rule, "resides in the community" was replaced by "resides in a non-institutional setting (e.g., house, apartment)," which has a more obvious meaning.
6. Verbosity was reduced. For example, "the PACE program" became "PACE." (The "P" in the acronym "PACE" means "Program.")
7. In paragraph (A)(8)(d) of the rule, formerly paragraph (H)(4) of the rule, examples of Medicaid waiver programs were provided for readers who are familiar with popular programs like PASSPORT, but, perhaps, not the term "medicaid waiver program for home and community-based services."
8. Update this RSFA

On the afternoon of October 1, 2008, ODA refiled this proposed new rule again to change the public hearing's date and location.

On January 6, 2009, ODA refiled this proposed new rule to:

1. Replace "Is eligible for medicaid benefits for" in paragraph (A)(3) of the rule with "requires."
2. Insert ", or pays for the premiums and patient-liability costs" at the end of paragraph (A)(5) of the rule.
3. Replace paragraphs (A)(6) and (A)(7) of the rule with one paragraph that says, "Agrees to obtain medicaid services, if any, or medicare services, if any, only through the PACE organization during the period of enrollment in PACE; and,".

Previously, the paragraphs said, "Agrees to obtain medicaid benefits, if any, only through the PACE organization during the period of enrollment in PACE;" and "Agrees to only obtain medicare benefits, if any, only through the PACE organization during the period enrollment in PACE; and,"

4. Replace "Another medicaid managed care program" in paragraph (A)(8)(a) of the rule with "A medicaid managed-care program other than PACE;"

5. Update this RSFA.

12. 119.032 Rule Review Date:

(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

ODA does not anticipate any increase nor decrease in expenditures appropriated to ODA in the current biennium.

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

3C4-490-621 PACE-Federal

GRF-490-421 PACE

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:

Because this proposed new rule merely outlines the criteria for eligibility, but does not require any action on the part of individuals or entities, ODA does not anticipate that there will be any costs of compliance with this rule to any individuals or entities.

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**