

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

Agency Name

Division

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173-50-03

Rule Number

NEW

TYPE of rule filing

Rule Title/Tag Line

Enrollment process.**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**

5. Statute(s) the rule, as filed, amplifies or implements: **173.02, 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 the process for enrolling an individual in 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

proposed rule once ODJFS adopts a rule that grants 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 process for enrolling an individual in PACE, including:

1. ODA's oversight of the enrollment process;
2. Allowing individuals to begin the enrollment process at either a CDJFS or a PACE organization and requiring the CDJFSs and the PACE organizations to work together to enroll the individuals;
3. The details of the enrollment process for the individual who makes initial contact with a CDJFS;
4. The details of the enrollment process for the individual who makes initial contact with a PACE organization;
5. The process for adding and removing names from a waiting list; and,
6. Definitions.

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:

PRIMARY CHANGE: The proposed new rule stated that PASSPORT administrative agencies (PAAs) performed assessments of applicants for PACE. Because it is a PACE organization that conducts the assessment, this language was removed. (cf., newly-formatted paragraphs (C)(5) and (D)(1) of this rule)

OTHER CHANGES:

1. The formatting of the rule was changed to promote the paragraphs that address the enrollment process when the individual makes initial contact with a CDJFS and the enrollment process when the individual does the same with a PACE organization to the primary paragraph level. Those paragraphs are now paragraph (C) and (D) of this rule.

2. Two ODJFS forms were defined in the previous version of rule 173-50-01; however, since the forms are only mentioned in this rule, the definitions of those forms are now provided at the end of this rule. Since ODJFS' forms begin with the number "0," references to ODJFS forms in the rule now begin with the number "0." Additionally, because a person may also apply for PACE through form 02399, that form is now mentioned accordingly in the refiled version of the rule.

3. Almost every paragraph of the refiled version of the rule has reduced verbosity. These changes were technical in nature and did not substantively change the intent of the rule. For example, the frequent use of "the PACE program" was reduced to "PACE". (The "P" in the acronym "PACE" means "Program.") Also for example, the two uses of the lengthy formula that said, "The CDJFS shall determine whether the individual meets the financial eligibility requirements for those seeking medicaid eligibility as specified in Chapters 5101:1-37 to 5101:1-42 of the Administrative Code. If the CDJFS determines that the individual does not meet the financial eligibility requirements for those seeking medicaid eligibility as specified in Chapters 5101:1-37 to 5101:1-42 of the Administrative Code, the CDJFS shall send a notice of denial and appeal rights to the individual and the authroized representative of the individual (if any),..." was reduced to say, "The CDJFS shall determine whether the individual meets the financial eligibility criteria for medicaid that are specified in Chapters 5101:1-37 to 5101:1-42 of the Administrative Code.

If the CDJFS determines that the individual does not meet the financial eligibility criteria, it shall send a notice of denial and appeal rights to the individual (or the individual's authorized representative)...." Also, "The PACE organization shall organize the waiting list according to a chronological basis. The PACE organization shall place an individual onto the waiting list in accordance with the date the individual signed form JFS 2398 or the date that all non-financial eligibility criteria was met, whichever date is earlier" was reduced to "The PACE organization shall place applicants on the waiting list according to the date each applicant signs form JFS 02398 (or form JFS 02399) or the date that all non-financial eligibility ceriteria is met, whichever date is earlier."

4. 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. Add "If the next applicant on the waiting list is not ready to enroll in PACE, the PACE organization may enroll the next person on the waiting list who is ready" to paragraph (E)(3) of the rule.
2. Replace "As used in this rule," in paragraph (F) of the rule with "Definitons:"
3. 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:

COST OF COMPLIANCE TO AN INDIVIDUAL SEEKING ENROLLMENT INTO PACE: ODA does not anticipate that there are any costs of compliance for an individual seeking enrollment into PACE as a result of this rule.

COST OF COMPLIANCE TO A COUNTY DEPT. OF JOB AND FAMILY SERVICES (CDJFS): This proposed new rule mandates that a CDJFS make such a determination for those who are enrolling into PACE. It is a routine task for a CDJFS to determine Medicaid eligibility for a consumer. Because it is most likely that a CDJFS would eventually need to perform a determination of Medicaid eligibility for such the individuals enrolling into PACE even if those individuals were not enrolling into PACE, ODA believes that this proposed new rule will pose no new costs of compliance onto a CDJFS.

COST OF COMPLIANCE TO A PACE ORGANIZATION: Once a PACE organization is approached by an individual wishing to enroll into PACE or once a CDJFS refers such an individual to a PACE ORGANIZATION, a staff member from a PACE organization must visit the individual to make an in-person assessment, thus incurring administrative costs. In comparison to the in-person assessments currently offered by PACE organizations (but not regulated by any rule), ODA believes that this proposed new rule will not create lengthier in-person assessments. Therefore, the administrative costs should not increase as a result of this rule.

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**