

Rule Summary and Fiscal Analysis

Part A - General Questions

Rule Number: 173-50-03

Rule Type: New

Rule Title/Tagline: PACE: enrollment, plan of care, and reassessment.

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? 121.07, 173.01, 173.02, 173.50
5. What statute(s) does the rule implement or amplify? 173.50, 173.501; 42 C.F.R. 460.102, 460.106, 460.152, 460.154, 460.156, 460.158, 460.160
6. What are the reasons for proposing the rule?

This rule package updates ODA's PACE rules to comply with recent changes to federal PACE rules in 42 CFR Part 460. For more information, please review the business impact analysis (BIA).
7. Summarize the rule's content, and if this is an amended rule, also summarize the rule's changes.

This rule establishes the enrollment process for PACE. ODA proposes to adopt this new rule to replace a rule of the same number that ODA proposes to simultaneously rescind.

This proposed new rule would differ from the current rule because ODA would reword and reorganize it to comply with the June 3, 2019 amendments to 42 CFR 460.152, 460.154, and 460.156. For more information, please review the BIA.

- 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. 121.75, 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.**

ODA refiled this rule to amend paragraphs (C)(1), (C)(3), and (E)(3)(a) of this proposed new rule to permit a PACE organization to conduct a comprehensive assessment by telephone, video conference, or in person, rather than just in person.

07/01/2020 ODA made a revised filing of this rule to reschedule the public hearing and to upload a new public hearing notice into the Register of Ohio. In doing so, ODA did not make any revisions to this proposed new rule.

II. Fiscal Analysis

- 11. 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

The proposed rescission of this rule would not affect the biennial budget that the Ohio General Assembly established for ODA in H.B. 166 (133rd G.A.).

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

This rule establishes the enrollment process for PACE.

It may affect applicants to PACE because the process may determine that some meet the requirements while others do not.

It may affect the income the PACE organization makes from premiums because the process may determine that some applicants meet the requirements while others do not.

For more information, please review the BIA.

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**
15. **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

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

IV. Regulatory Restrictions (This section only applies to agencies indicated in R.C. 121.95 (A))

18. 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? 6

(E) [in the new rule] Plan of care: The PACE organization SHALL do all of the following for any participant enrolled into PACE:

(E)(1) [in the new rule] The PACE organization SHALL collaborate with the participant to develop a plan of care for the participant that includes all of the following:

(E)(2) [in the new rule] The PACE organization SHALL implement, coordinate, and monitor the participant's plan of care.

(E)(3)(a) [in the new rule] At least semiannually, or more often if the participant's condition dictates or if requested by the participant or the participant's authorized representative, the team SHALL conduct a comprehensive assessment of the applicant's medical, physical, emotional, and social needs and ability to remain in the community without jeopardizing his/her health or safety.

(E)(3)(b) [in the new rule] If the comprehensive assessment in paragraph (E)(3)(a) of this rule indicates a need to revise the plan of care, the team SHALL collaborate with the participant to revise the plan of care.

(E)(3)(c) [in the new rule] The PACE organization SHALL submit at least one of the semiannual comprehensive assessments in paragraph (E)(3)(a) of this rule to ODA at least once per year with no more than three hundred and sixty-five days between submissions of assessments.

B. How many existing regulatory restrictions do you propose removing? 12

(C)(1) [in the rule to rescind] The applicant SHALL apply for medicaid (unless already enrolled in medicaid) with the assistance of ODM's administrative agency.

(C)(2) [in the rule to rescind] After the applicant applies, ODM's administrative agency SHALL determine if the applicant meets all financial eligibility

requirements for medicaid in Chapters 5160:1-1 to 5160:1-6 of the Administrative Code.

(C)(3) [in the rule to rescind] If ODM's administrative agency determines the applicant does not meet all financial eligibility requirements, it SHALL send a notice of denial and appeal rights to the applicant (or the authorized representative) according to Chapters 5101:6-1 to 5101:6-9 of the Administrative Code.

(C)(3)([in the rule to rescind] It SHALL also send a notice of denial to ODA and the PACE organization.

(C)(5) [in the rule to rescind] Once a PACE organization receives the application, it SHALL contact the applicant to complete the application, if necessary, and to provide the applicant with an in-person assessment to determine eligibility for PACE.

(C)(6) [in the rule to rescind] Once the in-person assessment is completed, the PACE organization SHALL forward the information from its assessment to ODA.

(C)(7) [in the rule to rescind] After receiving the information, ODA SHALL determine if the applicant meets all eligibility requirements in rule 173-50-02 of the Administrative Code.

(C)(8)(a) [in the rule to rescind] ODA SHALL notify the PACE organization of its determination.

(C)(8)(b) [in the rule to rescind] Once the PACE organization receives the determination from ODA, it SHALL notify the applicant (or the authorized representative) of the approval of enrollment into PACE and provide the applicant (or the authorized representative) with an enrollment agreement to sign.

(C)(8)(c) [in the rule to rescind] In order to be enrolled into the program, the applicant SHALL sign the enrollment agreement and return it to the PACE organization.

(C)(9)(a) [in the rule to rescind] ODA SHALL notify the PACE organization of its determination.

(C)(9)(b) [in the rule to rescind] ODA SHALL provide the applicant (or the authorized representative) with a notice of denial and appeal rights in Chapters 5101:6-1 to 5101:6-9 of the Administrative Code.