

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

Agency Name

Division

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Rule Number

NEW

TYPE of rule filing

Rule Title/Tag Line

Involuntary disenrollment.**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 the process for the involuntary disenrollment of a consumer from 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.

Under section 173.50 of the Revised Code, the adoption of this rule is pending the

adoption of a rule by ODJFS that gives ODA the authority to do so.

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:

1. Establishes the criteria for the involuntary disenrollment of a participant; and,
2. Establishes the process for handling a request for involuntary disenrollment.

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 to make numerous technical (non-substantial) changes, such as reducing verbosity. The changes should make the meaning of the rule unmistakable and easier to read. The changes reduced the number of words from 1,130 words to 777 words.

The changes are as follows:

LARGER CHANGES:

1. The paragraphs on the documentation necessary for the criteria for involuntary disenrollment to be considered as valid criteria for involuntary disenrollment were combined with their corresponding paragraphs under paragraph (A) of the refiled version of this proposed new rule.

2. Paragraph (B) of the refiled version was placed into chronological order and some directional words were added (e.g., "in the time between the request and the decision by ODA," "If ODA does not approve the request," and "If ODA approves the request").

SMALLER CHANGES:

1. Verbosity was reduced (e.g., "The PACE program" --> "PACE," some uses of "involuntary disenrollment of a participant" --> "involuntary disenrollment" or "disenrollment," "plan of care" --> "care plan," "establish and maintain" --> "maintain," and the use of pronouns when doing so did not jeopardize the clarity of the rule's intent ("the participant's own health" --> his/her health".)

2. All language on the establishment of the last date of enrollment were confined to paragraph (B)(5)(a) of the refiled version.

3. The examples of failing to maintain a physician-patient relationship were changed from "canceling medical appointments and not rescheduling them" to "repeated non-compliance with medical advice or repeated failure to keep appointments" which are the examples cited in 42 C.F.R. 460.164 (d) (2).

4. The disqualifying fraudulent behavior that is associated with sections 2913.40 and 2913.401 of the Revised was spelled-out as "Medicaid fraud or Medicaid eligibility fraud" so that the reader of the rule does not need to reference those sections to understand the intent of the paragraph.

5. "Physically abuse" was replaced by "physical abuse."

6. The criterion of incarceration was combined with the criteria of geography into paragraph (A)(4) of the refiled version.

7. "Right to a hearing" was replaced with "right to file a grievance" in paragraph (A)(1)(c) of the refiled version.

8. The occurrences of "patient liability costs" were replaced by "patient-liability costs."

9. "The discharge plan shall..." was replaced by "In each discharge plan, the PACE organization shall..." because a discharge plan is not an actor who can be held

accountable for the mandate. This is found in paragraph (B)(5)(e) of the refiled version.

10. Subject headings were added to the sub-paragraphs of paragraph (A) of the refiled version, such as "fraud," "geography," and "care plan." This should help the reader find what he/she is looking for with more ease.

11. "Employees of the PACE program" was replaced by "employees of the PACE organization" since the employees work for that organization and not the government program. This is found in paragraph (A)(3) of the refiled version.

12. Uses of troublesome words were removed or replaced. (e.g., "These are," "and/or," "due" --> "owed," "due to the" --> "because of a," "might" --> "may," "could" --> "may,")

13. For the sake of uniformity, "interdisciplinary team's treatment plan" and "interdisciplinary team's plan of care" were replaced by "care plan."

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 "or the provider" after "a witness" in paragraph (A)(3) of the rule.
2. Insert "for the" in between "The PACE organization shall continue to provide" and "necessary services" in paragraph (B)(2)(a) of the rule.
3. Insert "for the" in between "The PACE organization shall continue to provide" and "necessary services" in paragraph (B)(5)(c) of the rule.
4. 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 by the Ohio General Assembly for 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 A PARTICIPANT BEING INVOLUNTARILY DISENROLLED FROM PACE: ODA does not anticipate that there are any costs of compliance for a participant being involuntarily disenrolled from PACE as a result of this rule.

COST OF COMPLIANCE TO A PACE ORGANIZATION: Once a PACE organization determines that a participant should be disenrolled from PACE, a staff member from a PACE organization must process the disenrollment. ODA estimates that this will involve a few minutes of administrative staff time per participant being disenrolled.

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**