

**Rule Summary and Fiscal Analysis (Part A)****Department of Job and Family Services**

Agency Name

**Division of Medical Assistance**

Division

**Mike Lynch**

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**5101:3-31-05**

Rule Number

**AMENDMENT**

TYPE of rule filing

Rule Title/Tag Line

**PASSPORT HCBS waiver covered services.****RULE SUMMARY**

1. Is the rule being filed consistent with the requirements of the RC 119.032 review? **Yes**

2. Are you proposing this rule as a result of recent legislation? **No**

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: **5111.85**

5. Statute(s) the rule, as filed, amplifies or implements: **5111.85**

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

Five-year review. To update and clarify the pre-admission screening system providing options and resources today (PASSPORT) home and community based services (HCBS) waiver program.

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 rule sets forth the services covered by the pre-admission screening system

providing options and resources today (PASSPORT) home and community based services (HCBS) waiver program.

Changes to the rule include the addition to the opening paragraph "The requirements pertaining to services directed by waiver consumers set forth in this rule begin when the Ohio department of job and family services (ODJFS) receives approval from the centers for medicare and medicaid services (CMS) of an amendment adding consumer direction to the PASSPORT waiver, or on the effective date of this rule, whichever is later."

Changes to the rule include these additions to the following paragraphs listed below:

(B)(15) "Enhanced community living services as set forth in rule 173-39-02.20 of the Administrative Code"; and paragraph (E) "If a consumer receives enhanced community living services, per the federally approved waiver, the consumer may not simultaneously receive either personal care or homemaker services available through the PASSPORT waiver program."

(F) "Consumers who elect to self-direct personal care services provided by consumer-directed individual providers, pursuant to rule 173-39-02.11 of the Administrative Code, must be assessed by their case manager to determine the consumer's ability to self-direct their care and assume the responsibilities of an employer as set forth in rule 173-42-06 of the Administrative Code."

(F)(1) If a consumer demonstrates the ability to self-direct their care and assume the responsibilities of the employer of ODA-certified long term care individual providers, the case manager may initiate the orientation process to familiarize the consumer with the self direction of services including the role of the FMS.

(F)(2) "If the consumer is unable to demonstrate the ability to self-direct their care and assume the responsibilities of an employer of ODA certified long-term care individual providers, an authorized representative to act on the consumer's behalf."

(F)(3) "If no authorized representative is available, the case manager will assist the consumer with obtaining services through ODA-certified long term care agency providers."

(G) "If a consumer who is or is seeking to self-direct their care chooses an authorized representative to act on their behalf in accordance with paragraph (F)(2) of this rule, the authorized representative shall not simultaneously serve as the consumer's authorized representative and the consumer's consumer-directed individual provider."

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 rule incorporates one or more references to another rule or rules of the Ohio Administrative Code. This question is not applicable to any incorporation by reference to another OAC rule because such reference is exempt from compliance with RC 121.71 to 121.74 pursuant to RC 121.76(A)(3).

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:

Not applicable.

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:

The refiled rule changes includes the deletion to paragraph A: "The requirements pertaining to services directed by waiver consumers set forth in this rule begin when the Ohio department of job and family services (ODJFS) receives approval from the centers of medicare and medicaid services (CMS) of an amendment adding consumer direction to he PASSPORT waiver, or on the effective date of this rule, whichever is later."

Changes to paragraph E of the refiled rule include the deletion of the word "simultaneously".

Changes to paragraph F of the refiled rule include the deletion of the words "pursant to rule 173-39-02.11 of the Administrative Code."

Changes to paragraph F(1) of the refiled rule include the deletion the words "(FMS)" and the addition of "financial management service (FMS)."

Changes to paragraph F(2)of the refile rule include the deletion of "individual" and the addition of "personal care."

Changes to paragraph G of the refile rule include the deletion of the words "or is" and "their", and the addition of "his or her" in addition to the deletion of the word "individual", and the addition of "personal care."

12. 119.032 Rule Review Date: **11/18/2010**

(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

No impact on current budget.

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

Not applicable.

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:

Not applicable.

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**