

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

Agency Name

Division

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**5160-31-03**

Rule Number

**AMENDMENT**

TYPE of rule filing

Rule Title/Tag Line

**Eligibility for enrollment in the PASSPORT HCBS waiver program.****RULE SUMMARY**1. Is the rule being filed for five year review (FYR)? **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: **5166.02**5. Statute(s) the rule, as filed, amplifies or implements: **5166.02, 173.52**

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

This rule is being amended to update policy related to the administration of the PASSPORT 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 eligibility requirements for an individual to participate in the PASSPORT Waiver Program. Changes to this rule include:

- 1) The individual cost limit used to determine eligibility for PASSPORT is being changed to \$14,700 per month for waiver services.
- 2) If the PASSPORT Administrative Agency (PAA) determines that the applicant's waiver service needs cannot be met within the individual cost limit, the individual shall not be enrolled in PASSPORT.
- 3) Once enrolled in PASSPORT, additional waiver services may not be authorized in excess of \$14,700 per month. When a change in condition occurs that necessitates the provision of additional waiver services, referrals to other community services, including institutional services, will be explored.
- 4) If the individual's waiver service needs exceed the individual cost limit, the individual shall be disenrolled from the waiver.
- 5) Ohio Administrative Rule cites and Code of Federal Regulations effective dates are being updated.
- 6) Paragraph (A)(11) regarding eligibility for enrollment in Medicaid or Medicare hospice has been removed as the relationship between home and community-based service waivers and hospice coverage is addressed in rule 5160-56-02 of the Administrative Code.

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 dated references to the Code of Federal Regulations (CFR). This question is not applicable to any dated incorporation by reference to the CFR because such reference is exempt from compliance with RC 121.71 to 121.74 in accordance with RC 121.75(D).

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 ORC 121.71 to 121.74 or pursuant to ORC 121.76

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. If applicable, indicate each specific paragraph of the rule that has been modified:

*Not Applicable.*

12. Five Year Review (FYR) Date: **12/8/2014**

(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 increase expenditures.

\$4,000,000

The change to the PASSPORT cost limit is expected to allow for a longer tenure on the PASSPORT waiver program, increasing the length of time individuals can reside in the community. In SFY 14, the average monthly census for the PASSPORT waiver was 31,712 individuals and the approximate per member per month cost was \$1,177.00 for PASSPORT waiver services. On average, approximately 28 percent, or 8,879 individuals, disenrolled from the PASSPORT

waiver in SFY 14 and were admitted to a nursing facility to receive long term services and supports. If every one of these individuals who disenrolled to a nursing facility were retained, the net increase in PASSPORT expenditures could be as much as \$4,000,000 annually in state share. Although this represents an increase in PASSPORT expenditures, it may also result in an increase in the revenues available in appropriation line item 651-525, as continuing to serve these individuals in the community costs significantly less than the cost of institutional care.

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

ALI 651-525

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:

No new costs.

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**

**S.B. 2 (129th General Assembly) Questions**

18. Has this rule been filed with the Common Sense Initiative Office pursuant to R.C. 121.82? **No**

19. Specific to this rule, answer the following:

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**

