

## Rule Summary and Fiscal Analysis

### Part A - General Questions

**Rule Number:** 5160-31-03

**Rule Type:** Amendment

**Rule Title/Tagline:** Eligibility for enrollment in the PASSPORT HCBS waiver program.

**Agency Name:** Ohio Department of Medicaid

**Division:**

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#### I. Rule Summary

1. Is this a five year rule review? Yes
  - A. What is the rule's five year review date? 4/15/2021
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? 5166.02
5. What statute(s) does the rule implement or amplify? 173.52
6. What are the reasons for proposing the rule?

This rule is being proposed for amendment pursuant to five year rule review, and to update policy related to the administration of the PASSPORT Waiver program and the ongoing COVID-19 public health emergency.

7. Summarize the rule's content, and if this is an amended rule, also summarize the rule's changes.

This rule sets forth the eligibility for enrollment requirements for an individual who participates in the PASSPORT Waiver. Paragraph (A)(8) is being amended to allow physicians, certified nurse practitioners and physician assistants to approve services

in the person-centered services plan. It is being amended to allow verbal approval of the person-centered services plan for both initial and ongoing eligibility activities. Paragraph (C) is being amended to reflect that an individual will not be disenrolled from the waiver if disenrollment will result in losing eligibility for Ohio Medicaid, unless the individual requests disenrollment, moves out of state, or dies. U.S.C. effective dates are also being updated.

- 8. Does the rule incorporate material by reference? Yes**
- 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.**

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.

This rule incorporates one or more dated references to the United States Code (U.S.C.). This question is not applicable to any dated incorporation by reference to the U.S.C. because such reference is exempt from compliance with RC 121.71 to 121.74 in accordance with RC 121.75.

This rule incorporates one or more references to another rule or rules of the Ohio Administrative Code (OAC). 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 121.75.

- 10. If revising or re-filing the rule, please indicate the changes made in the revised or re-filed version of the rule.**

This rule is being refiled. Paragraph (A)(8) had language that was removed. The language removed from this paragraph was "and at least annually thereafter".

## **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.

N/A

Not Applicable

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

Not Applicable

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? No
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? 0**

**B. How many existing regulatory restrictions do you propose removing? 3**

(A)(8): The individual's attending physician must approve that the services in the person-centered services plan are appropriate to meet the individual's needs.

(A)(8): If the approval is verbal, written approval must be obtained within thirty days of the enrollment date.

(A)(8): ODA's designee shall be responsible for obtaining the physician's approval.