

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

Agency Name

Division

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**5160-31-06**

Rule Number

**AMENDMENT**

TYPE of rule filing

Rule Title/Tag Line

**Provider conditions of participation for the PASSPORT HCBS waiver program.****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: **5166.02**

5. Statute(s) the rule, as filed, amplifies or implements: **5166.02, 173.39, 173.52**

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

For five year rule review and to update policy relative to providers eligible to furnish PASSPORT waiver services.

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 establishes the conditions of participation for providers furnishing services in the PASSPORT waiver program.

Changes to this rule include:

- 1) Adding language to paragraph (B) to clarify that providers are furnishing the PASSPORT waiver services in rule 5160-31-05 of the Administrative Code; and
- 2) Delete paragraph (C), which listed the types of providers that may be certified by ODA to furnish PASSPORT waiver services.

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 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. 119.032 Rule Review Date: **3/20/2014**

(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 have no impact on revenues or expenditures.

0.00

The changes proposed to this rule will have no impact on expenditures.

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:

No new costs.

16. Does this rule have a fiscal effect on school districts, counties, townships, or municipal corporations? **Yes**

You must complete Part B of the Rule Summary and Fiscal Analysis in order to comply with Am. Sub. S.B. 33 of the 120th General Assembly.

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? **Yes**

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? **Yes**

Section 173.39 of the Revised Code authorizes the Ohio Department of Aging to certify providers furnishing services through the programs that department administers. The proposed rule establishes a requirement that obtaining a Medicaid provider agreement is contingent upon a provider's certification by ODA to furnish PASSPORT waiver services.

The certification requirements established by ODA are designed to assure that providers are qualified to furnish services safely and effectively to individuals enrolled in PASSPORT.

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**

**Rule Summary and Fiscal Analysis (Part B)**

1. Does the Proposed rule have a fiscal effect on any of the following?

(a) School Districts	(b) Counties	(c) Townships	(d) Municipal Corporations
No	Yes	Yes	Yes

2. Please provide an estimate in dollars of the cost of compliance with the proposed rule for school districts, counties, townships, or municipal corporations. If you are unable to provide an estimate in dollars, please provide a written explanation of why it is not possible to provide such an estimate.

The changes to this rule impose no additional requirements on providers and therefore results in no new costs of compliance. Note - the proposed changes to the PASSPORT program will create new business opportunities for providers, including providers that may be owned or operated by counties, townships, or municipal corporations, as new services and types of providers will be added to the PASSPORT on a statewide basis.

3. If the proposed rule is the result of a federal requirement, does the proposed rule exceed the scope and intent of the federal requirement? **No**

4. If the proposed rule exceeds the minimum necessary federal requirement, please provide an estimate of, and justification for, the excess costs that exceed the cost of the federal requirement. In particular, please provide an estimate of the excess costs that exceed the cost of the federal requirement for (a) school districts, (b) counties, (c) townships, and (d) municipal corporations.

*Not Applicable.*

5. Please provide a comprehensive cost estimate for the proposed rule that includes the procedure and method used for calculating the cost of compliance. This comprehensive cost estimate should identify all of the major cost categories including, but not limited to, (a) personnel costs, (b) new equipment or other capital costs, (c) operating costs, and (d) any indirect central service costs.

This rule change results in no new comprehensive costs to providers.

(a) Personnel Costs

This rule change results in no new personnel costs to providers.

**(b) New Equipment or Other Capital Costs**

This rule change results in no new equipment or capital costs to providers.

**(c) Operating Costs**

This rule change results in no new operating costs to providers.

**(d) Any Indirect Central Service Costs**

This rule change results in no new indirect central service costs to providers.

**(e) Other Costs**

This rule change results in no other costs to providers.

**6. Please provide a written explanation of the agency's and the local government's ability to pay for the new requirements imposed by the proposed rule.**

Participation in the Medicaid program is optional on the part of the provider. For providers that are already serving individuals in the Choices waiver there will be no additional costs for them to clients in the PASSPORT waiver. New providers will have to adhere to current practice by obtaining the necessary certification from the Ohio Department of Aging.

**7. Please provide a statement on the proposed rule's impact on economic development.**

The proposed change to this rule will have no impact on economic development.