

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

Agency Name

Division

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Rule Number

AMENDMENT

TYPE of rule filing

Rule Title/Tag Line

**Assisted living home and community based services (HCBS)
waiver rate setting.****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: **173.54**

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

This rule is being amended to comply with the 5 year rule review requirement.

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:

The rule sets forth the methods used to determine waiver provider rates in the Assisted Living waiver. The rule is being amended to revise terminology and update rule citations.

"Consumer" is being replaced with "individual".

"PASSPORT Administrative Agency" is being replaced with "ODA's designee".

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 Ohio Administrative Code. This question is not applicable to any dated incorporation by reference to the Ohio Administrative Code because such reference is exempt from compliance with RC 121.71 to 121.74 in accordance with 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 If the rule is being **rescinded** and incorporates a text or other material by reference, and it was **infeasible** for the agency to file the text or other material, provide an explanation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. If applicable, indicate each specific paragraph of the rule that has been modified:

Not Applicable.

12. Five Year Review (FYR) Date: **12/27/2016**

(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

Not applicable

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? **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? **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? **Yes**

This rule requires the PAAs to authorize the assisted living services on the individual's service plan and negotiate and approve the per job bid rate for the community transition service.

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 | No | No | 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.

Pursuant to the three-party agreements with ODM and ODA, the PASSPORT Administrative Agencies (PAAs) serve as ODA's designee. Each PAA varies in business model, infrastructure, size of caseloads and size of the provider pool. ODA establishes the site operating budget for each PAA. This funding is intended to properly supply the PAA with enough funding to complete in-person assessments to determine waiver eligibility and provide ongoing case management for individuals enrolled in the waiver. Through the interim payment process outlined in the three-party agreement, ODM requests and deposits the federal share of allocated ODA administrative allowable costs and processes inter agency fund transfers. Historically, the PAAs have not reported spending in excess of the established site operating budgets and it is not expected that this change to policy would greatly change that dynamic.

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.

There may be an increase in training costs for the PAAs as a result of the proposed rule. The costs will vary by based on the PAA's infrastructure, size of caseloads and size of the provider pool. Historically the PAAs have not reported that training costs result in spending in excess of site operating budget and it is not expected that this change to policy would greatly change that dynamic.

(a) Personnel Costs

There may be an increase in personnel costs for the PAAs as a result of the proposed rule. The personnel costs will vary based on the current staffing patterns, infrastructure, size of caseloads and size of the provider pool. Historically the PAAs have not reported personnel costs result in spending in excess of site operating budget and it is not expected that this change to policy would greatly change that dynamic.

(b) New Equipment or Other Capital Costs

Capital costs are not expected to be impacted by the proposed rule.

There may be an increase in new equipment costs for the PAAs as a result of the proposed rule. The new equipment costs will vary based on the PAA's current business model and infrastructure. Historically the PAAs have not reported spending in excess of site operating budget and it is not expected that this change to policy would greatly change that dynamic.

(c) Operating Costs

The PAAs may incur increased operating costs. Any impact on operating costs will vary based on the PAA's current business model and infrastructure. Historically the PAAs have not reported spending in excess of site operating budget and it is not expected that this change to policy would greatly change that dynamic.

(d) Any Indirect Central Service Costs

The PAAs may incur increased indirect central service costs. Any impact on indirect costs will vary based on the PAA's current business model and infrastructure. Historically the PAAs have not reported spending in excess of site operating budget and it is not expected that this change to policy would

greatly change that dynamic.

(e) Other Costs

Not applicable.

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.

Local governments are not expected to incur any costs as a result of the proposed rule.

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

There is no discernible impact on economic development