



Department of
Aging

Ted Strickland, Governor
Barbara E. Riley, Director

NOTICE

Revised on July 21, 2010

ODA conducted a public hearing to obtain comments concerning ODA's proposed rescission of a rule and adoption of new rule regarding the **social work counseling service** of the **PASSPORT** program on July 19, 2010, as required by section 119.03 of the Revised Code. Because the notice contained erroneous information, ODA has stricken the erroneous language on the notice and will now conduct a second public hearing on **July 29, 2010** in Conference Room A of the ODA's offices at 50 W. Broad Street, **9th floor**; Columbus, OH 43215. The hearing will begin at **2:00PM** and will continue until all parties in attendance at that time have had an opportunity to provide comment.

RULE 173-39-02.12 Social work counseling service.

ODA is proposing to replace the current rule with new rule. In doing so, ODA has three goals:

1. To comply with the five-year review required under section 119.032 of the Revised Code.
2. To adopt rule on the social work counseling service that is substantially similar to the requirements for providing a social work counseling service under the rules of Department of Job and Family Services (JFS) and the Department of Developmental Disabilities (DoDD), which are also under development or may soon be under development.
 - a. The goal is to provide consistent requirements for providers among the three agencies' Medicaid waiver programs. The rule content was developed by a consolidation exploration team of the Executive Medicaid Management Agency (EMMA), which Governor Strickland created with Executive Order 2007-36S. ODA, JFS, and DoDD were part of that team.
 - b. Certainly, there are differences in the rules each agency will propose, but the content is substantially similar. One exception is that ODA's proposed new rule requires the provider to provide the service in the consumer's home, while JFS' proposed rule language does not require this and DoDD's forthcoming proposed language may not require this.
 - c. One noticeable, but insubstantial, difference is that ODA's regulations on the service appear in a rule that regulates just one service and follows the format of other rules that ODA has proposed since Executive Order 2008-04S (see goal #3 below), while JFS' regulations on the service appear in a rule that regulates several services and follows the format of other JFS rules. (See paragraph (D) of rule 5101:3-51-04 of the Administrative Code for JFS' language on the service.)
 - d. Other changes resulting from the EMMA workgroup are as follows:
 - i. ODA is proposing to allow marriage and family therapists (MFTs) and independent marriage and family therapists (IMFTs) to perform the service.
 - ii. ~~ODA is proposing to no longer require counseling staff to have at least one year of counseling service (elsewhere) before providing this service.~~
 - iii. ODA is proposing to replace the requirement to document "the consumer plan

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implementation and the outcomes" with "clinical record" with "discharge summary" language used by JFS.

3. To comply with Governor Strickland's Executive Order 2008-04S: "Implementing Common Sense Business Regulation," which requires all state agencies to write easier-to-read and easier-to-comprehend rules to promote transparency in state regulations.
 - a. ODA complies with the executive order by:
 - i. Complying with Chapter 5 of the Legislative Service Commission's "Rule Drafting Manual," as found on http://www.lsc.state.oh.us/rules/rdm06_06.pdf
 - ii. Incorporating recommendations from "Advanced Legal Drafting" by Bryan A. Garner (Dallas: LawProse, Inc. © 2007)
 - iii. Incorporating recommendations from "Plain English Writing Tips," as found on http://business.ohio.gov/docs/RegReform_PlainEnglishWritingTips.pdf.
 - b. The result is language that:
 - i. Generously uses descriptive sub-headings (e.g., "Clinical record," "Units and rates," etc.) and divides topics in rules to fit under those sub-headings in order to enable readers to thumb through the rule
 - ii. Begins with general material that appeals to most rule readers (e.g., what a service does) and ends with specific material that appeals to fewer readers (e.g., provider qualifications, units of service)
 - iii. Uses the active voice in the present tense, not the passive voice (e.g., "shall be") and not the future tense (e.g., "will")
 - iv. Uses the singular, unless the plural is necessary
 - v. Replaces legalese with plain-English words

Any person may direct written comments or requests for information concerning the proposed actions to Tom Simmons at the Department on or before the date of the hearing by writing to tsimmons@age.state.oh.us.