

Department of  
AgingJohn Kasich, Governor  
Bonnie Kantor-Burman, Director**NOTICE**

H.B. No. 153's amendments to sections 173.401 and 173.404 of the Revised Code take effect on September 29, 2011. The amendments will change the Unified Waiting List and the Home First component of the **Medicaid-funded component of the PASSPORT Program**, by preventing ODA's designee (*i.e.*, the PASSPORT administrative agency) from adding an individual to the Unified Waiting List only to immediately remove the individual from the list because he or she qualifies for Home First component of the program. This will allow ODA's designee to immediately enroll an eligible individual into the program any time a slot is available in the program without the formality of adding and removing the individual from the waiting list. H.B. No. 153's amendments also change the nomenclature for the program and now name the program the "Medicaid-Funded Component of the PASSPORT Program." ODA must now incorporate the changes into Chapter 173-42 of the Administrative Code. To do this, ODA proposes to replace rule 173-42-01 of the Administrative Code with new rules 173-42-01 and 173-42-03 of the Administrative Code. ODA proposes to rescind the current rule and adopt the new rules on September 29, 2011, the same day that H.B. No. 153's amendments take effect.

ODA will conduct a public hearing to obtain comments concerning ODA's rule proposals. ODA will conduct the hearing on **August 15, 2011** in Conference Rooms **10A & 10B** of the ODA's offices at 50 W. Broad Street, **10th floor**; Columbus, OH 43215. The hearing will begin at **1:30PM** and will continue until all parties in attendance at that time have had an opportunity to provide comment.

ODA will consolidate this public hearing with nine other public hearings on August 15, 2011 to reduce the state's administrative expenses and to reduce the general public's costs associated with traveling to Columbus to participate in public hearings.

Any person may direct written comments or requests for information concerning the rule proposals to Tom Simmons, ODA's rules manager, on or before the date of the hearing by writing to [rules@age.state.oh.us](mailto:rules@age.state.oh.us).

(Please also note the related rule package regarding the Unified Waiting List.)

**INTRODUCTION**

ODA is proposing to rescind rule 173-42-01 of the Administrative Code and replace it by adopting new rules 173-42-01 and 173-42-03 of the Administrative Code. In doing so, ODA has 3 basic goals:

1. To incorporate H.B. No. 153's amendments to sections 173.401 and 173.404 of the Revised Code into Chapter 173-42 of the Administrative Code. H.B. No. 153's amendments take effect on September 29, 2011. The

50 W. Broad Street / 9th Floor  
Columbus, OH 43215-3363 U.S.A.  
[www.aging.ohio.gov](http://www.aging.ohio.gov)614-466-5500 (Main)  
614-466-5741 (Fax)  
DIAL 711 (TTY)

amendments will change the Unified Waiting List and the Home First component of the Medicaid-Funded Component of the PASSPORT Program, by preventing ODA's designee (*i.e.*, the PASSPORT administrative agency) from adding an individual to the Unified Waiting List only to immediately remove the individual from the list because he or she qualifies for Home First component of the program. This will allow ODA's designee to immediately enroll an eligible individual into the program any time a slot is available in the program without the formality of adding and removing the individual from the waiting list. H.B. No. 153's amendments also change in nomenclature for the program and now calls the program the "Medicaid-Funded Component of the PASSPORT Program." ODA must now incorporate the changes into Chapter 173-42 of the Administrative Code. To do this, ODA proposes to replace rule 173-42-01 of the Administrative Code with new rules 173-42-01 and 173-42-03 of the Administrative Code. ODA proposes to rescind the current rule and adopt the new rules on September 29, 2011, the same day that H.B. No. 153's rules take effect.

2. To comply with section 119.032 of the Revised Code, which requires each state agency to review each rule on or before the rule's designated review date.
3. To comply with Governor Kasich's Executive Order 2011-01K "Implementing Common Sense Business Regulation" and S.B. No. 2 (129<sup>th</sup> G.A.):
  - a. ODA is proposing to amend this chapter after providing interested parties and the general public an opportunity to provide input on the proposed replacement of rule 173-42-01 of the Administrative Code with proposed new rules 173-42-01 and 173-42-03 of the Administrative Code. From June 30, 2011 to July 11, 2011, ODA posted the proposed amended rule on <http://aging.ohio.gov/information/rules/proposed.aspx> for a public-comment period.
  - b. Earlier in 2011, ODA adopted the most-recent versions of rule 173-42-01 of the Administrative Code after undergoing a similar review process. After reviewing this rule again, ODA has determined that:
    - i. The rule and the proposed amendment to the rule do not burden any Ohio business. The only businesses subject to the rule are ODA's designees and the rule proposals eliminate an unnecessary process that current rules require of ODA's designees.
    - ii. ODA wrote the rule and the proposed amendment to the rule in a manner that is as easy to understand as the subject matter permits, including adding a helpful cross-reference, and aligning topics under standard rule titles for uniformity between chapters of the Administrative Code and between programs.

#### **173-42-01 Introduction and definitions.**

Specifically, ODA is proposing to amend this rule to:

1. Change the title from "Enrollment process for PASSPORT home and community-based services medicaid waiver program" to "Introduction and definitions." "Introduction and definitions" is a standard rule title that ODA assigns to the first rule of each chapter of rules it adopts into the Ohio Administrative Code.
2. Add an introductory paragraph that explains the chapter is about the Medicaid-funded component of the PASSPORT program.
3. Add a cross-reference to Chapter 173-40 of the Administrative Code to the introductory paragraph. In the interest of making ODA's rules as easy to understand as the subject matter permits, ODA wants to help readers of ODA's rules easily located the chapter on the *state-funded* component of the PASSPORT program.
4. Remove all enrollment language. The language now appears in proposed new rule 173-42-03 of the Administrative Code. ODA's standard is to assign rule numbers that end in "-03" to rules on the enrollment process. This provides uniformity to ODA's rules that make comparing one chapter of rules to the next as easy to understand as the subject matter permits.
5. Continue to define "CDJFS," "Nursing facility," "ODA's designee," and "ODJFS" as ODA did in the to-be-rescinded version of the rule.
6. Remove the definitions for "authorized representative" and for the enrollment forms. Because the terms are specific to enrollment and will soon only appear in one rule of Chapter 173-42 of the Administrative Code

(proposed new rule 173-42-03 of the Administrative Code), ODA now defines the terms in the definitions at the end of proposed new rule 173-42-03 of the Administrative Code so that the definition of the term is as close as possible to the single usage of the terms.

7. Change the definition for "PASSPORT Program" to reflect H.B. No. 153's change in nomenclature for the program, which it now calls the "Medicaid-funded component of the PASSPORT program."
8. Insert "173.01" into the statutory authority section because section 173.01 of the Revised Code gives ODA authority to adopt this rule.

#### **173-42-03 Enrollment process for the medicaid-funded PASSPORT program.**

Specifically, ODA is proposing adopt this new rule to:

1. Incorporate the enrollment language from rules 173-42-01 into this rule.
2. Incorporate the language from rule 173-44-04 of the Administrative Code concerning the Home First Component of the PASSPORT Program into this rule.
3. Describe the Unified Waiting List as one of two options ODA's designee shall take when enrolling an eligible individual into the PASSPORT Program when no slot is available. The other option is now the home-first component of the PASSPORT Program.
4. Use the new nomenclature for the program throughout the rule (*i.e.*, "Medicaid-funded component of the PASSPORT program.")
5. Organize the rule in a format as similar to rule 173-38-03 of the Administrative Code as possible to make comparing the rules as easy as possible. This will make the ODA's rules as easy to comprehend as the subject matter allows. This will also allow the public to easily compare the enrollment processes between the Medicaid-funded component of the PASSPORT Program and the Medicaid-funded component of the Assisted Living Program, which will be of more importance as the State of Ohio considers the consolidation of its Medicaid waiver programs, as authorized to do under H.B. No. 153.
6. Insert "173.01" into the statutory authority section because section 173.01 of the Revised Code gives ODA authority to adopt this rule.