

Rule Summary and Fiscal Analysis

Part A - General Questions

Rule Number: 173-38-03

Rule Type: New

Rule Title/Tagline: Assisted living program (medicaid-funded component): enrollment and reassessment of individuals.

Agency Name: Department of Aging

Division:

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I. Rule Summary

1. Is this a five year rule review? No
 - A. What is the rule's five year review date?
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? 173.01, 173.02, 173.54
5. What statute(s) does the rule implement or amplify? 173.54, 173.542, 173.55; 42 C.F.R 441.352
6. What are the reasons for proposing the rule?

This rule filing is part of 2 packages of rules ODA is filing on the same day. The rules in these packages regard eligibility and enrollment in the state- and Medicaid-funded components of the Assisted Living and PASSPORT Programs, the unified waiting list, and PACE. ODA is making many updates to these rules, but all are non-substantive.

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

This rule establishes the enrollment requirements for individuals. The following are the differences between this proposed new rule and the current rule of the same number which ODA simultaneously proposes to rescind:

(1) This proposed new rule uses the following updated terminology: "requirements" not "criteria," "all eligibility requirements" not "the eligibility criteria," "ODM's administrative agency" not "CDJFS," "person-centered services plan" not "service plan," "RCF" (which is defined in rule 173-38-01 of the Administrative Code) not "residential care facility," and by eliminating some unnecessary use of the word "that."

(2) ODM launched the Ohio Benefits Long-Term Services and Supports (OBLTSS) system in October, 2017 as the new way for applicants to seek enrollment in LTSS programs. As a result, this proposed new rule no longer mentions forms associated with the CRIS-E system.

(3) This proposed new rule uses updated references to ODM's rules.

(4) This current rule uses "may" rather than require the department to enroll an individual on the waiting list because the individual may no longer meet all the eligibility requirements or may no longer want to enroll. Unfortunately, "may" makes it appear ODA has an option to not enroll a person who meet all the eligibility requirements and wants to enroll. Therefore, the proposed new rule uses "shall," but also add "if the individual continues to meet the eligibility requirements for the program and continues to want to enroll in the program." The effect of this paragraph will be the same as the current rule, so this is not a substantive amendment.

(5) This proposed new rule no longer includes the specifics of enrolling the person according to the home first component of the Assisted Living Program, which repeats section 173.542 of the Revised Code, and instead just reference section 173.542 of the Revised Code.

(6) This proposed new rule no longer includes a misspelled word.

(7) This proposed new rule mentions the reassessment requirement. ODA has already been requiring reassessment and also form ODA1044. This codifies the requirement.

All of the above differences are non-substantive because they do not create any new requirements for individuals, ODM's administrative agencies, or ODA's designees.

During the online public-comment period, ODA had proposed replacing "individual" with "applicant." ODA no longer proposes to do so.

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. 121.71 to 121.76, please explain the basis for the exemption and how an individual can find the referenced material.**
This rule incorporates form ODA1044, which ODA publishes on its website for the general public free of charge.
10. **If revising or re-filing the rule, please indicate the changes made in the revised or re-filed version of the rule.**

On August 16, 2018, ODA made a revising filing of this rule to upload a revised public hearing notice and to revise this RSFA.

II. Fiscal Analysis

11. **As a result of this proposed rule, please estimate the increase / decrease in revenues or expenditures affecting this agency, or the state generally, in the current biennium or future years. If the proposed rule is likely to have a different fiscal effect in future years, please describe the expected difference and operation.**

This will have no impact on revenues or expenditures.

\$0.00

if ODA adopts this proposed new rule, ODA estimates there will be no increase/decrease in revenue from what the Ohio General Assembly appropriated to ODA for the biennium in Am. Sub. H. B. 49 (132nd G.A.), especially because it is substantially similar to the rule it will replace.

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

ODA estimates that this rule will have no cost of compliance to any directly-affected person other than to require individuals seeking to enroll into the Medicaid-funded component of the Assisted-Living Program to apply for the program. It will not require individuals not seeking to enroll to apply.

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**

III. Common Sense Initiative (CSI) Questions

15. Was this rule filed with the Common Sense Initiative Office? No

16. 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**