

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

Agency Name

Division

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**173-40-03**

Rule Number

**AMENDMENT**

TYPE of rule filing

Rule Title/Tag Line

**Disenrollment from the state-funded PASSPORT 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? **Yes**

Bill Number: **HB487**General Assembly: **129**Sponsor: **Amstutz (by request)**

3. Statute prescribing the procedure in accordance with the agency is required to adopt the rule: **111.15**

4. Statute(s) authorizing agency to adopt the rule: **173.01, 173.02, 173.40**

5. Statute(s) the rule, as filed, amplifies or implements: **173.40**

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

In 2011, H. B. No. 153 (129th General Assembly) established the maximum period of eligibility for the State-Funded Component of the PASSPORT Program as three months, which could be a period of time as short as 89 days (e.g., February, March, and April) or as long as 92 days (e.g., May, June, and July).

Recently, H. B. No. 487 (129th General Assembly) amended section 173.40 of the Revised Code to replace "three months" with "ninety days." Once the amendment takes effect, it will establish equitable eligibility periods for all consumers of the program.

To implement H. B. No. 487's amendment to section 173.40 of the Revised Code, ODA is now proposing to amend rules 173-40-02 and 173-40-03 of the Administrative Code to replace occurrences of "three months" with "ninety days." ODA proposes to adopt the amendments on the same day that H. B. No. 487's amendment takes effect.

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 lists the enrollment process for the state-funded component of the PASSPORT Program.

In response to H.B. No. 487 (129th General Assembly), ODA is proposing to amend the rule to replace "three months" with "ninety days."

(See item #11 of this RSFA for the additional changes that ODA proposed on July 13, 2012 and July 16, 2012.)

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 response left blank because filer specified online that the rule does not incorporate a text or other material by reference.*

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:

*This response left blank because filer specified online that the rule does not incorporate a text or other material by reference.*

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:

On July 13, 2012, ODA revised the rule to:

1. State that ODA will not disenroll a consumer who no longer meets all the criteria for the program if the only criterion the consumer no longer meets is the patient-liability criterion.
2. Clarify that ODA is not required to provide notice and an opportunity for a hearing in accordance with Chapter 119 of the Revised Code if a consumer voluntarily separates himself or herself from the program.
3. Replace the outdated appeals language regarding the grandparented-basis for eligibility in the state-funded component of the PASSPORT program with the standard language for appeals under Chapter 119 of the Revised Code. (See notes below for ODA's subsequent revision to this language on July 16, 2012.)
4. Replace occurrences of "ODA's designee" with "ODA (or ODA's designee)."
5. Make other minor, clarifying changes.
6. Revise this RSFA.

On July 16, 2012, ODA revised the rule to:

1. Delete "whose application for enrollment into the state-funded component of the PASSPORT program is denied" from paragraph (C)(3) of the rule. This is because ODA may reassess or disenroll any consumer in the state-funded component of the PASSPORT Program on the basis of a grandparented status, but it is not possible for ODA to accept any new enrollees into the program on a grandparented basis.
2. Revise this RSFA.

12. 119.032 Rule Review Date: **6/11/2012**

(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

Although ODA operates the state-funded component of the PASSPORT Program, H.B. No. 153 (129th General Assembly) moved the PASSPORT Program's funding to budget line item GRF-600-525, which is under JFS, not ODA. Therefore, ODA estimates that the proposed amendment of this rule will have no impact upon the biennial budget that the Ohio General Assembly established for ODA in H.B. No. 153 or that was reviewed by H.B. No. 487 (129th General Assembly).

Additionally, because the amendments to section 173.40 of the Revised Code are contained in the same legislation that authorizes the appropriations for program, ODA believes the Ohio General Assembly factored H.B. No. 487's amendments to section 173.40 of the Revised Code into the impact upon line item GRF-600-525 and the state-funded component of the PASSPORT Program.

14. Identify the appropriation (by line item etc.) that authorizes each expenditure necessitated by the proposed rule:

GRF-600-525 Health Care/Medicaid (State and Federal).

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:

ODA estimates that there is no cost of compliance to any directly-affected person associated with the proposed amendment of this rule.

16. Does this rule have a fiscal effect on school districts, counties, townships, or municipal corporations? **No**

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? **No**

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**

This rule regulates the enrollment process for consumers of the state-funded component of the PASSPORT Program. It does not regulate any Ohio business.

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**

This rule regulates the enrollment process for consumers of the state-funded component of the PASSPORT Program. It does not regulate any Ohio business.

C.) Does this rule require specific expenditures or the report of information as a condition of compliance? **No**

This rule regulates the enrollment process for consumers of the state-funded component of the PASSPORT Program. It does not regulate any Ohio business.