

173-40-03

Disenrollment from the state-funded PASSPORT ~~grandparented home care~~ program.

(A) Presumptive: For each consumer enrolled in the state-funded component of the PASSPORT program on the basis of paragraph (A)(1) of rule 173-40-02 of the Administrative Code:

(1) Disenrollment:

(a) ODA's designee shall notify the consumer of the last day that the state-funded component of the PASSPORT program will pay the consumer's home and community-based services.

(b) ODA's designee shall disenroll any consumer who no longer meets all the criteria in paragraph (A)(1) of rule 173-40-02 of the Administrative Code.

(2) Appeals: There are no appeal rights for a consumer who is disenrolled from the state-funded component of the PASSPORT program if the consumer was enrolled in the state-funded component of the PASSPORT program on the basis of presumptive eligibility.

(3) Re-enrollment:

(a) After ODA's designee disenrolls a consumer from the state-funded component of the PASSPORT program, ODA's designee may not subsequently re-enroll the consumer back into the state-funded component of the PASSPORT program on the basis of presumptive eligibility.

(b) After ODA's designee disenrolls a consumer from the state-funded component of the PASSPORT program, ODA's designee may not subsequently enroll the consumer into the medicaid-funded component of the PASSPORT program until the CDJFS determines that the consumer meets the medicaid financial eligibility criteria (and any other criteria) in rule 5101:3-31-03 of the Administrative Code.

(c) After ODA's designee disenrolls a consumer from the state-funded component of the PASSPORT program, ODA's designee may not subsequently enroll the consumer into the state-funded component of the assisted-living program.

(4) Transfer: As appropriate, ODA's designee shall help any consumer that it disenrolls transfer to other community-based long-term care services or to a nursing facility.

(B) Loss of medicaid: For each consumer enrolled in the state-funded component of the PASSPORT program on the basis of paragraph (A)(2) of rule 173-40-02 of the

Administrative Code:

(1) Disenrollment:

- (a) ODA's designee shall notify the consumer of the last day that the state-funded component of the PASSPORT program will pay the consumer's home and community-based services.
- (b) ODA's designee shall disenroll any consumer who no longer meets all the criteria in paragraph (A)(2) of rule 173-40-02 of the Administrative Code.

(2) Appeals:

- (a) If a consumer loses their eligibility for the medicaid-funded component of the PASSPORT program, the consumer may appeal that action in accordance with Chapter 5101:3-31 of the Administrative Code.
- (b) Eligibility for the state-funded component of the PASSPORT program on the basis of loss of medicaid is available to temporarily protect the consumer, ODA's designee, and certified providers from medicaid financial eligibility outcomes that may either produce dangerous absences of consumer care or the denial of provider reimbursement when services have been provided in good faith. Because appeal rights are provided for any consumer who is denied enrollment in, or disenrolled from, the medicaid-funded component of the PASSPORT program, there are no appeal rights for a consumer who is disenrolled from the state-funded component of the PASSPORT program if the consumer was enrolled in the state-funded component of the PASSPORT program on the basis of loss of medicaid.

(3) Re-enrollment:

- (a) After ODA's designee disenrolls a consumer from the state-funded component of the PASSPORT program, ODA's designee may not subsequently re-enroll the consumer back into the state-funded component of the PASSPORT program on the basis of presumptive eligibility.
- (b) After ODA's designee disenrolls a consumer from the state-funded component of the PASSPORT program, ODA's designee may not subsequently enroll the consumer into the state-funded component of the assisted-living program.

- (4) Transfer: As appropriate, ODA's designee shall help any consumer that it disenrolls transfer to other community-based long-term care services or to a nursing facility.

(C) Grandparented: For a consumer enrolled in the state-funded component of the PASSPORT program on the basis of paragraph (A)(3) of rule 173-40-02 of the Administrative Code:

(1) Reassessment:

~~(A)(a)~~ Whenever ~~the PAA conducts a re-assessment of~~ ODA's designee reassesses the condition and service needs of a consumer ~~enrolled in the PASSPORT grandparented home care program,~~ the PAA staff ODA's designee shall verify ~~whether~~ if the consumer continues to meet all eligibility criteria specified ~~in~~ under paragraph (A)(3) of rule 173-40-02 of the Administrative Code.

~~(B)(b)~~ ~~The PAA~~ ODA's designee shall ~~re-assess~~ reassess each ~~consumers~~ consumer ~~enrolled in the PASSPORT grandparented eligibility home care program~~ to assess the consumer's condition and service needs at least once every twelve months or at any time the consumer's condition or service needs change substantially.

~~(C)(c)~~ At least once every six months ~~the PAA~~ ODA's designee shall develop and implement a revised ~~plan of care~~ service plan for ~~every~~ each ~~PASSPORT grandparented home care~~ consumer ~~who~~ so long as the consumer continues to meet all ~~the~~ eligibility criteria ~~under paragraph (A)(3) of rule 173-40-02 of the Administrative Code.~~

~~(D)(d)~~ ~~The PAA~~ If a consumer does not continue to meet all the eligibility criteria under paragraph (A)(3) of rule 173-40-02 of the Administrative Code, ODA's designee shall provide ~~any grandparented~~ the ~~consumer who fails to meet all the eligibility criteria in rule 173-40-02 of the Administrative Code~~ with a written notice of intent to disenroll the consumer from the state-funded component of the PASSPORT grandparented home care program.

~~(E)(2)~~ Disenrollment from PASSPORT grandparented home care program:

~~(1)(a)~~ ~~The PAA~~ ODA's designee may propose that any consumer in the state-funded component of the PASSPORT grandparented home care program be disenrolled based upon any of the following:

~~(a)(i)~~ ~~The consumer's failure~~ consumer does not continue to meet all the eligibility criteria ~~set forth by~~ under paragraph (A)(3) of rule 173-40-02 of the Administrative Code;

~~(b)~~(ii) The consumer's permanent relocation; or,

~~(e)~~(iii) The consumer's death.

~~(2)~~(b) When a ~~grandparented~~ consumer's services are suspended for any reason for sixty calendar days, ~~the PAA ODA's designee~~ shall provide the consumer (or the consumer's authorized representative, if any), with notice of disenrollment from the state-funded component of the PASSPORT grandparented home care program.

~~(3)~~(c) Suspensions which ultimately result in disenrollment shall have a disenrollment date that is retroactive to the first day of the suspension of services.

~~(F)~~(3) Appeals: Any consumer ~~enrolled in the grandparented home care program~~ may appeal a reduction in, suspension of, or disenrollment from the services received as ~~an enrollee~~ a consumer as follows:

~~(1)~~(a) ~~The PAA ODA's designee~~ shall explain any proposed reduction, suspension, or disenrollment action to the consumer ~~directly affected~~ (or to the consumer's authorized representative, if any). ~~The PAA ODA's designee~~ shall provide the explanation in writing and, when feasible, orally as well, at least fifteen calendar days ~~prior to~~ before the effective date of the proposed action. ~~The PAA ODA's designee~~ shall include in the written explanation an outline of the appeals process provided under this rule.

~~(2)~~(b) ~~Any~~ The consumer (or the consumer's authorized representative ~~of an enrollee, if any~~) who wishes to appeal a proposed ~~PAA~~ reduction in home and community-based services through the state-funded component of the PASSPORT program, or the suspension of, or disenrollment from, the state-funded component of the PASSPORT grandparented home care services program received by the consumer shall provide ~~the PAA ODA's designee~~ with written notice of his intent to appeal no ~~less~~ more than fifteen calendar days after the mailing date appearing on the ~~PAA~~ notice of the proposed action.

~~(3)~~(c) ~~Whenever~~ If a written notice of intent to appeal has been properly received, ~~the PAA ODA's designee~~ shall continue the consumer's current ~~plan of care~~ service plan pending the outcome of the appeal process.

- (4)(d) No more than five working days after the date upon which ~~the PAA~~ ODA's designee receives a timely written notice of appeal, ~~the PAA~~ ODA's designee shall schedule an informal fact-finding meeting with the consumer (and/or the consumer's authorized representative, if any). ~~The PAA~~ ODA's designee shall notify the consumer (and/or the consumer's authorized representative, if any) of the date, time, and place of the meeting. ~~The PAA~~ ODA's designee shall conduct the fact-finding meeting no more than ten working days after the date on which ~~the PAA~~ ODA's designee received the written notice of the intent to appeal.
- (5)(e) ~~The~~ ODA's designee's PASSPORT site director (or the site director's designee) shall chair the informal fact-finding meeting and shall attempt to reach agreement between the consumer (and/or the consumer's authorized representative, if any) and any of ODA's designee's PAA staff who are relevant to the consumer's situation. The PASSPORT site director shall issue a written summary of the meeting to the consumer (and/or the consumer's authorized representative, if any), ~~within~~ in fewer than five working days ~~from~~ after the date of the meeting.
- (6)(f) ~~Should~~ If the consumer (or the consumer's authorized representative, if any) ~~wish~~ wishes to continue the appeal of the proposed action, he shall notify the director of ODA in writing no more than fifteen working days after the mailing date on the PASSPORT site director's written summary.
- (7)(g) No more than five working days after receiving a notice of intent to continue the appeal process, ODA shall schedule a formal appeal hearing and shall notify ~~the PAA~~ ODA's designee and the consumer (and/or the consumer's authorized representative, if any) of the date, time, and place of the appeal hearing. ODA shall hold the appeal hearing no more than ten working days after the date that ODA received the request to continue the appeal, unless otherwise agreed to by the parties involved.
- (8)(h) Upon notice of appeal to ODA, ~~the PAA~~ ODA's designee shall immediately forward a copy of the written summary of the informal fact-finding meeting and any supporting documentation to ODA.
- (9)(i) An independent hearing officer who has been retained by ODA at ODA's expense shall conduct the ODA appeal hearing. ~~Whenever~~ If possible, the hearing officer shall conduct the hearing in the consumer's home.

- (a)(i) Any advocate or legal representative of the consumer's choosing may accompany the consumer (or the consumer's authorized representative, if ~~the consumer has a representative~~ any). Any of ODA's designee's relevant PAA staff may represent ~~the PAA~~ ODA's designee.
- (b)(ii) The independent hearing officer shall incorporate the following elements when conducting the appeal hearing:
- (i)(a) The hearing officer shall record the proceedings and any participant may record the proceedings;
- (ii)(b) When convening the hearing, the hearing officer shall announce his name, his title, the date, the time, the location of the hearing, the appellant's name, ~~the PAA(s)~~ any of ODA's designees affected and present at the hearing, and the stated action being appealed;
- (iii)(c) The hearing officer shall outline the process through which the consumer (or the consumer's authorized representative, if any), ~~the PAA~~ ODA's designee, and any other relevant participant may introduce verbal and/or written evidence;
- (iv)(d) The hearing officer may adjourn the appeal hearing at any time the participants become too disruptive to conduct a fair hearing, or at any time after all parties have been heard and the hearing officer determines that sufficient evidence exists to render a fair and appropriate recommendation.
- (10)(j) The independent hearing officer shall issue a written recommendation to the director of ODA. The recommendation shall either uphold ~~the PAA~~ ODA's designee's action being appealed or shall recommend that the action be amended. The director of ODA shall issue a final decision on the matter no more than thirty days after the date upon which the hearing was held and shall inform the complainant and ~~the PAA~~ ODA's designee of the director's decision by certified mail. The director's decision shall be binding upon ~~the PAA~~ ODA's designee. Whenever the decision is to resume, increase, or reduce PASSPORT home care and community-based services through the state-funded component of the PASSPORT program, ~~the PAA~~ ODA's designee shall implement the decision upon receipt of the director's decision.

~~(G)~~(4) Further appeals: ~~Should a~~ If a consumer (or the consumer's authorized representative, if any) ~~wish~~ wishes to contest the decision of the director of ODA, the consumer (or the consumer's authorized representative, if any) may pursue the complaint in a court of common pleas.

(5) Re-enrollment:

(a) After ODA's designee disenrolls a consumer from the state-funded component of the PASSPORT program, ODA's designee may not subsequently re-enroll the consumer back into the state-funded component of the PASSPORT program on the basis of presumptive eligibility.

(b) After ODA's designee disenrolls a consumer from the state-funded component of the PASSPORT program, ODA's designee may not subsequently enroll the consumer into the state-funded component of the assisted-living program.

(6) Transfer: As appropriate, ODA's designee shall help any consumer that it disenrolls transfer to other community-based long-term care services or to a nursing facility.

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Certification

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