

173-44-04

**Unified waiting list.**

(A) The United States centers for medicare and medicaid services limits the number of slots available for enrollment in the assisted living, choices, and PASSPORT medicaid-funded waiver programs which may cause a waiting list. A lack of capacity ~~for serving in~~ PACE applicants may also cause a waiting list. ODA has the authority to operate these programs. ODA manages enrollment into those programs, including the ability to establish a waiting list. (This rule does not apply to the state-funded components of the assisted living or PASSPORT programs.)

(B) Waiting list:

(1) If ~~the CDJFS~~ ODA's designee determines that an individual meets all the non-financial eligibility criteria for the program to which the individual has applied, but a slot is not available for enrollment in the program, ODA's designee shall place the individual on the unified waiting list established under section 173.404 of the Revised Code according to the latter of the individual's signature date on form JFS02399 (or, for PACE, either form JFS02398 or JFS02399) or the date the individual met all non-financial eligibility criteria for the program to which he or she applied. For the choices program, ODA's designee shall place the individual on the unified waiting list if the individual meets all the eligibility criteria according to the date the individual completed the certification process described in rule 5101:3-32-03 of the Administrative Code. The following rules present the non-financial eligibility criteria:

(a) Assisted living: See rule 5101:3:33-03 of the Administrative Code.

(b) Choices: See rule 5101:3-32-03 of the Administrative Code.

(c) PACE: See rule 173-50-02 of the Administrative Code.

(d) PASSPORT: See rule 5101:3-31-03 of the Administrative Code.

(2) With the ~~exceptions~~ exception of the circumstances specified in paragraph (A) ~~or (B)(3)~~ of this rule, ODA's designee shall offer enrollment to any applicant individual on the unified waiting list for the assisted living, choices, PACE, or PASSPORT programs who meets all of the eligibility criteria for the program to which he or she applied, in compliance with the enrollment rule for the program to which he or she applied, according to the chronological order that ODA's designee placed him or her on the waiting list.

(a) The following rules present the eligibility criteria:

- (i) Assisted living: See rule 5101:3-33-03 of the Administrative Code.
  - (ii) Choices: See rule 5101:3-32-03 of the Administrative Code.
  - (iii) PACE: See rule 173-50-02 of the Administrative Code.
  - (iv) PASSPORT: See rule 5101:3-31-03 of the Administrative Code.
- (b) The following ~~rule~~ rules present the enrollment process:
- (i) Assisted living: See ~~rule~~ rules 173-38-03 and 5101:3-33-04 of the Administrative Code.
  - (ii) Choices: See ~~rule~~ rules 173-37-01 and 5101:3-32-06 of the Administrative Code.
  - (iii) PACE: See rule 173-50-03 of the Administrative Code.
  - (iv) PASSPORT: See ~~rule~~ rules 173-42-03 and 5101:3-31-04 of the Administrative Code.
- (3) ODA's designee shall offer an ~~applicant~~ individual on the unified waiting list for the assisted living, PACE, or PASSPORT programs who meets all of the eligibility criteria for the program to which he or she has applied in compliance with the applicable enrollment rule according to the chronological order that ODA's designee placed him or her on the unified waiting list, unless the enrollment rule says otherwise ~~and before ODA's designee offers enrollment to any other individual on the waiting list if any of the following apply:~~
- ~~(a) The individual is residing in a nursing facility.~~
  - ~~(b) A physician has determined and documented in writing that the individual has a medical condition that, unless ODA's designee enrolls the individual in a home and community-based program such as the assisted living, PACE, or PASSPORT programs, the individual will require admission to a nursing facility in less than thirty days after the physician's determination.~~
  - ~~(c) The individual has been hospitalized and a physician has determined and documented in writing that, unless ODA's designee enrolls the~~

~~individual in a home and community-based program such as the assisted living, PACE, or PASSPORT programs, the individual will require a direct transfer of admission from the hospital to the nursing facility.~~

~~(d) Both of the following apply:~~

~~(i) The individual is the subject of a report made under section 5101.61 of the Revised Code regarding abuse, neglect, or exploitation or such a report referred to adult protective services under section 5126.31 of the Revised Code; or has made a request to adult protective services for protective services, as defined in section 5101.60 of the Revised Code.~~

~~(ii) A county department of job and family services and ODA's designee have jointly documented in writing that, unless ODA's designee enrolls the individual into a home and community-based services such as the assisted living, PACE, or PASSPORT programs, the individual should be admitted to a nursing facility.~~

~~(e) For the assisted living program only, the individual has resided in a residential care facility for at least six months immediately before applying for the assisted living program and is at risk of imminent admission to a nursing facility because the costs of residing in the residential care facility have depleted the individual's resources so that the individual is unable to continue to afford the cost of residing in the residential care facility.~~

(4) If ODA's designee offers enrollment to an applicant individual from the unified waiting list, but the applicant individual declines enrollment, the applicant individual may remain on the unified waiting list and ODA's designee shall offer enrollment to the next applicant individual on the list according to the order this rule establishes.

(5) If a slot is available in the program to which an eligible individual has applied, ODA's designee or the PACE organization shall not place the individual on the unified waiting list.

(C) Definitions for this rule:

(1) "Assisted living program" ("program") means the ~~home and community-based~~ medicaid-waiver medicaid-funded component of the assisted living program, but not the state-funded component of the assisted living program, created under section 5111.89 of the Revised Code, ~~that~~ The program provides consumers in the program with the assisted living service under rule

173-39-02.16 of the Administrative Code and, in some cases, the community transition service under rule 173-39-02.17 of the Administrative Code, if the consumers reside in a residential care facility and would otherwise receive services in a nursing facility if the waiver program was not available.

~~(2)~~ "CDJFS" means ~~"county department of job and family services."~~

~~(3)~~(2) "Choices program" means the medicaid-funded program created under section 173.403 of the Revised Code.

~~(4)~~(3) "Form JFS02398" means "form JFS02398 'Request for Program of All-Inclusive Care for the Elderly Services.'"

~~(5)~~(4) "Form JFS02399" means "form JFS02399 'Request for Medicaid Home and Community-Based Services (HCBS).'"

~~(6)~~(5) "Nursing facility" has the same meaning as in section 5111.20 of the Revised Code.

~~(7)~~(6) "ODA" means "the Ohio department of aging."

~~(8)~~(7) "ODA's designee" has the same meaning as "PASSPORT administrative agency" in section 173.42 of the Revised Code. The current PASSPORT administrative agencies are the area agencies on aging listed in rule 173-2-04 of the Administrative Code plus "Catholic Social Services of the Miami Valley."

~~(9)~~(8) "PACE" means "the program of all-inclusive care for the elderly," which is established by 42 U.S.C. 1396u-4, as amended, and 42 C.F.R. 460.

~~(10)~~(9) "PASSPORT program" ("PASSPORT") means the medicaid-funded component of the PASSPORT program, but not the state-funded component of the PASSPORT program, created under section 173.40 of the Revised Code.

Effective: 09/29/2011

R.C. 119.032 review dates: 07/13/2011 and 09/29/2016

CERTIFIED ELECTRONICALLY

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Certification

09/19/2011

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Date

Promulgated Under: 119.03  
Statutory Authority: 173.01, 173.02, 173.40, 173.404, 173.50, 5111.89  
Rule Amplifies: 173.401, 173.404, 173.501, 5111.894  
Prior Effective Dates: 03/12/2011