

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

Agency Name

Division

Tom Simmons

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173-50-03

Rule Number

AMENDMENT

TYPE of rule filing

Rule Title/Tag Line

Enrollment process.**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: **HB1**General Assembly: **128**Sponsor: **Sykes**

3. Statute prescribing the procedure in accordance with the agency is required to adopt the rule: **119.03**

4. Statute(s) authorizing agency to adopt the rule: **173.50**

5. Statute(s) the rule, as filed, amplifies or implements: **173.02, 173.50, 173.51**

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

ODA is proposing to amend rule 173-50-03 of the Administrative Code to comply with changes made by Am. Sub. H. B. No. 1 (128th G. A.) that took effect on October 16, 2009. H. B. No. 1 enacted section 173.501 of the Revised Code, thereby incorporating PACE into the Home First Program.

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 language of concern in division (B) of section 173.501 of the Revised Code says, "The PACE provider shall determine whether the PACE program is appropriate for the individual and whether the individual would rather participate in the PACE program than continue residing in the nursing facility. If the PACE provider determines that the PACE program is appropriate for the individual and the individual would rather participate in the PACE program than continue residing in the nursing facility, the PACE provider shall so notify the department of aging. On receipt of the notice from the PACE provider, the department of aging shall approve the individual's enrollment in the PACE program in accordance with priorities established in rules adopted under section 173.50 of the Revised Code."

Accordingly, ODA is proposing to bring rule 173-50-03 into compliance with the newly-enacted "Home First" language by amending the rule with a new paragraph, paragraph (E)(4) of the rule, that says,

"If an applicant on the waiting list is admitted to a nursing facility, the PACE organization shall determine whether PACE is appropriate for the applicant and whether the applicant would rather participate in PACE than continue residing in the nursing facility. If the PACE organization determines that PACE is appropriate for the applicant and the applicant would rather participate in PACE than continue residing in the nursing facility, the PACE organization shall enroll the applicant even if no slot is available on the waiting list."

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:

Not Applicable.

12. 119.032 Rule Review Date: **10/28/2009**

(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

ODA estimates that the adoption of this proposed amended rule will cause no impact upon the budget established for ODA by the Ohio General Assembly because the Ohio General Assembly mandated the change in the state biennial budget (part of Am. Sub. H. B. No. 1 (128th G. A.)) when they enacted section 173.501 of the Revised Code as part of that budget.

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

GRF-490-423 Long-Term Care Budget-State

3C40-490-623 Long Term Care Budget

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 will be no cost of compliance to any directly-affected person as a result of the adoption of this proposed amended 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**