

Rule Summary and Fiscal Analysis

Part A - General Questions

Rule Number: 173-50-03

Rule Type: New

Rule Title/Tagline: PACE: application, assessment, enrollment, plan of care, reassessment, and continued enrollment.

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? Yes
 - A. If so, what is the bill number, General Assembly and Sponsor? SB 9 - 134 - McColley, Roegner
3. What statute is this rule being promulgated under? 119.03
4. What statute(s) grant rule writing authority? 121.07, 173.01, 173.02, 173.50, 173.56
5. What statute(s) does the rule implement or amplify? 173.50, 173.501, 173.56; 42 C.F.R. 460.104, 460.106, 460.152, 460.154, 460.156, 460.158, 460.160.
6. Does the rule implement a federal law or rule in a manner that is more stringent or burdensome than the federal law or regulation requires? No
 - A. If so, what is the citation to the federal law or rule? Not Applicable
7. What are the reasons for proposing the rule?

This rule exists to establish the following for PACE: the standards for enrollment, plans of care, reassessment, and continued enrollment.

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

This rule establishes the following for PACE: the standards for enrollment, plans of care, reassessment, and continued enrollment. ODA's proposal to amend this rule will result in amending approximately more than 50% of the rule, so ODA proposes to rescind the current version of this rule and to adopt a new rule in its place to comply with the 50% guideline in §4.3.1 of LSC's Rule Drafting Manual. In doing so, ODA proposes to achieve the following:

1. Reduce the use of unnecessary regulatory restrictions (e.g., "shall") to comply with RC §§ 106.03 and 121.951. This proposal includes the substantive change noted below. This proposal also includes numerous non-substantive changes, such as referring to requirements in federal rules rather than restating those requirements in this rule. This reduction comprises most of the changes being proposed in this rule.

2. Require ODA to conduct the level-of-care assessment under 42 C.F.R. 460.152(a)(3) and no longer require the PACE organization to "conduct [this] comprehensive assessment."

9. Does the rule incorporate material by reference? No

10. If the rule incorporates material by reference and the agency claims the material is exempt pursuant to R.C. 121.75, please explain the basis for the exemption and how an individual can find the referenced material.

Not Applicable

11. If revising or re-filing the rule, please indicate the changes made in the revised or re-filed version of the rule.

When ODA originally filed this rule, ODA did not upload the .xml document with the revisions that ODA proposed in its responses to public comments. To resolve this, ODA refiled this rule to implement the following revisions as proposed in ODA's responses to public comments:

1. Remove references to ODA's designee from paragraphs (B)(1), (B)(2), (B)(4), (C), and (D) of this rule. For paragraph (D) this involved indicating that if the PACE organization determines that an applicant does not meet all eligibility requirements, then the PACE

organization shall notify CMS and ODA of its determination and need to notify the applicant of the denial and appeal rights.

2. Revise paragraph (G) of this rule to more closely follow the federal rules.

ODA also corrected a misspelled word in paragraph (B)(3) of this rule and updated this RSFA.

II. Fiscal Analysis

- 12. Please estimate the increase / decrease in the agency's revenues or expenditures in the current biennium due to this rule.**

This will have no impact on revenues or expenditures.

\$0.00

Adopting this rule will have no impact upon the biennial budget that the General Assembly established for ODA in House Bill 33 (135th G.A.), especially because ODA proposes to simultaneously rescind the similar current version of this rule.

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

This proposed new rule will implicitly require a person who wants to enroll in PACE to apply.

This proposed new rule will require the PACE organization to perform its intake responsibilities under federal law and its duties regarding the unified waiting list and home-first component of the program under state law.

- 14. Does the rule increase local government costs? (If yes, you must complete an RSFA Part B). No**

- 15. Does the rule regulate environmental protection? (If yes, you must complete an RSFA Part C). No**

- 16. If the rule imposes a regulation fee, explain how the fee directly relates to your agency's cost in regulating the individual or business.**

Not Applicable

III. Common Sense Initiative (CSI) Questions

17. Was this rule filed with the Common Sense Initiative Office? Yes

18. Does this rule have an adverse impact on business? Yes

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? Yes

This proposed new rule references the PACE organization's responsibilities (1) under 42 C.F.R. 460.152 to conduct intake, (2) under 42 C.F.R. 460.154 (cf., 42 C.F.R. 460.156) to notify a qualified applicant of the opportunity to enroll, and (3) under 42 C.F.R. 460.104 and 460.106 for its interdisciplinary team (IDT) to conduct an assessment and develop a plan of care. The only requirements that this rule establishes for the PACE organization that are not based in federal rules are the requirements to enroll a qualified applicant on the unified waiting list and through the home-first component of the program (if applicable) when no slot is available in PACE for the qualified applicant.

D. Is it likely that the rule will directly reduce the revenue or increase the expenses of the lines of business of which it will apply or applies? No

IV. Regulatory Restriction Requirements under S.B. 9. Note: This section only applies to agencies described in R.C. 121.95(A).

19. Are you adding a new or removing an existing regulatory restriction as defined in R.C. 121.95? No

A. How many new regulatory restrictions do you propose adding to this rule?

Not Applicable

B. How many existing regulatory restrictions do you propose removing from this rule?

Not Applicable

- C. If you are not removing existing regulatory restrictions from this rule, please list the rule number(s) from which you are removing restrictions.**

Not Applicable

- D. Please justify the adoption of the new regulatory restriction(s).**

Not Applicable