

Rule Summary and Fiscal Analysis (Part A)**Department of Job and Family Services**

Agency Name

Division of Medical Assistance

Division

Mike Lynch

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Rule Number

AMENDMENT

TYPE of rule filing

Rule Title/Tag Line

Home and community-based service waivers: PASSPORT.**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? **No**

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: **5111.85**

5. Statute(s) the rule, as filed, amplifies or implements: **5111.85**

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

Five-year review. To clarify policy relating to the administration of the Home and Community-Based Services Waiver: Preadmission Screening System Providing Options and Resources Today (PASSPORT) 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:

This rule sets forth the Preadmission Screening System Providing Options and

Resources Today (PASSPORT) Home and Community-Based Service(HCBS)waiver services and eligibility criteria in the PASSPORT program. Changes to the rule include this addition to the opening paragraph "The requirements pertaining to services directed by waiver consumers set forth in this rule begin when the Ohio department of job and family services (ODJFS) receives approval from the centers of medicare and medicaid services (CMS) of an amendment adding consumer direction to the PASSPORT waiver, or on the effective date of this rule, whichever is later."

Changes to the rule include this deletion in paragraph (C) "and are to be effective on July 1, 2008. The maximum allowable reimbursement rates for services rendered prior to July 1, 2008 are the maximum allowable reimbursement rates in appendix A to this rule less three per cent."

Changes to the appendix A includes revision of "Personal care services" to distinguish between "Personal care services provided by Ohio department of aging (ODA) certified long term care agency providers and personal care services provided by ODA certified long term care consumer directed individual providers."

Changes to the rule include this addition to appendix A new services, "Enhanced Community Living Service."

Changes to the rule include a new provider type that will provide an existing service, "Personal care services provided by Ohio department of aging (ODA) Certified Long Term Care Consumer Directed Individual Providers."

Changes to the rule include the reimbursement amounts for the emergency response system (ERS) one month rental service from \$47.74 to \$32.36, and ERS installation service \$47.74 to \$31.83 in appendix A to this rule. The rate modification in the appendix results from a change in reimbursement practice by ODA. That department is no longer using a regional rate for ERS and has moved to a statewide reimbursement rate for that service.

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 rule incorporates one or more references to another rule or rules of the Ohio Administrative Code. This question is not applicable to any incorporation by reference to another OAC rule because such reference is exempt from compliance with RC 121.71 to 121.74 pursuant to RC 121.76(A)(3).

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:

Not applicable.

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:

This rule is being refiled with the following paragraph deleted from the rule's introduction "The requirements pertaining to services directed by waiver consumers set forth in this rule begin when the Ohio department of job and family services (ODJFS) receives approval from the centers for medicare and medicaid services (CMS) of an amendment adding consumer direction to the PASSPORT waiver, or on the effective date of this rule, whichever is later."

Changes to Appendix A include deleting the words "Consumer-Directed Individual Providers" and replacing that term with "Consumer-Directed Personal Care Providers."

In addition, the response to RSFA question 13 has been changed to update the estimated fiscal impact of the rule. The department has also included the addition of Rules Summary and Fiscal Analysis Part B.

12. 119.032 Rule Review Date: **11/18/2010**

(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 increase expenditures.

\$5,059,586.00

The state projects a savings in service expenditures as a result of adding consumer-directed personal care providers in the Preadmission Screening System Providing Options and Resources Today (PASSPORT) program. It is anticipated that this cost savings will offset administrative costs incurred by ODA through their administration of the new PASSPORT consumer-directed option.

There is no overall impact on the Ohio Department of Job and Family Services (ODJFS) as a result of the proposed rule changes. The Ohio Department of Aging (ODA) provides GRF for the PASSPORT program. The funds represented here are federal reimbursement for Medicaid expenditures in PASSPORT. Once received by ODJFS these funds are passed to ODA.

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

Not applicable.

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:

600-655.

16. Does this rule have a fiscal effect on school districts, counties, townships, or municipal corporations? **Yes**

You must complete Part B of the Rule Summary and Fiscal Analysis in order to comply with Am. Sub. S.B. 33 of the 120th General Assembly.

17. Does this rule deal with environmental protection or contain a component dealing with environmental protection as defined in R. C. 121.39? **No**

Rule Summary and Fiscal Analysis (Part B)

1. Does the Proposed rule have a fiscal effect on any of the following?

(a) School Districts	(b) Counties	(c) Townships	(d) Municipal Corporations
No	Yes	Yes	Yes

2. Please provide an estimate in dollars of the cost of compliance with the proposed rule for school districts, counties, townships, or municipal corporations. If you are unable to provide an estimate in dollars, please provide a written explanation of why it is not possible to provide such an estimate.

The Centers for Medicare and Medicaid Services (CMS) has approved an amendment to the Preadmission Screening System Providing Options and Resources Today (PASSPORT) waiver authorizing consumer direction and permitting the use of consumer-directed personal care providers. The proposed amendments to this rule and the rules in Chapter 5101:3-31 of the Administrative Code give PASSPORT consumers the ability to choose a new consumer-directed method of receiving personal care services. This policy change places no new administrative burden on agency providers and, as a result, there is no added cost of compliance for agency providers.

To the extent that a government entity may perform the PASSPORT personal care service as an agency provider, that provider may lose business as a result of increased competition in the marketplace. If a PASSPORT consumer receiving a personal care service from a government operated agency provider chooses the consumer-directed option, the government operated agency provider may lose income while a consumer-directed personal care provider will gain new income for providing the service to the consumer.

3. If the proposed rule is the result of a federal requirement, does the proposed rule exceed the scope and intent of the federal requirement? **No**

4. If the proposed rule exceeds the minimum necessary federal requirement, please provide an estimate of, and justification for, the excess costs that exceed the cost of the federal requirement. In particular, please provide an estimate of the excess costs that exceed the cost of the federal requirement for (a) school districts, (b) counties, (c) townships, and (d) municipal corporations.

Not Applicable.

5. Please provide a comprehensive cost estimate for the proposed rule that includes the procedure and method used for calculating the cost of compliance. This comprehensive cost estimate should identify all of the major cost categories including, but not limited to, (a) personnel costs, (b) new equipment or other capital costs, (c) operating costs, and (d) any indirect central service costs.

The Centers for Medicare and Medicaid Services (CMS) has approved an amendment to the Preadmission Screening System Providing Options and Resources Today (PASSPORT) waiver authorizing consumer direction and permitting the use of consumer-directed personal care providers. The proposed amendments to this rule and the rules in Chapter 5101:3-31 of the Administrative Code give PASSPORT consumers the ability to choose a new consumer-directed method of receiving personal care services. This policy change places no new administrative burden on agency providers and, as a result, there is no added cost of compliance for agency providers.

To the extent that a government entity may perform the PASSPORT personal care service as an agency provider, that provider may lose business as a result of increased competition in the marketplace. If a PASSPORT consumer receiving a personal care service from a government operated agency provider chooses the consumer-directed option, the government operated agency provider may lose income while a consumer-directed personal care provider will gain new income for providing the service to the consumer.

(a) Personnel Costs

Not applicable.

(b) New Equipment or Other Capital Costs

Not applicable.

(c) Operating Costs

Not applicable.

(d) Any Indirect Central Service Costs

Not applicable.

(e) Other Costs

The Centers for Medicare and Medicaid Services (CMS) has approved an amendment to the Preadmission Screening System Providing Options and Resources Today (PASSPORT) waiver authorizing consumer direction and permitting the use of consumer-directed personal care providers. The proposed amendments to this rule and the rules in Chapter 5101:3-31 of the Administrative Code give PASSPORT consumers the ability to choose a new consumer-directed method of receiving personal care services. This policy change places no new administrative burden on agency providers and, as a result, there is no added cost of compliance for agency providers.

To the extent that a government entity may perform the PASSPORT personal care service as an agency provider, that provider may lose business as a result of increased competition in the marketplace. If a PASSPORT consumer receiving a personal care service from a government operated agency provider chooses the consumer-directed option, the government operated agency provider may lose income while a consumer-directed personal care provider will gain new income for providing the service to the consumer.

6. Please provide a written explanation of the agency's and the local government's ability to pay for the new requirements imposed by the proposed rule.

The local government entity certified as an agency provider of personal care services will not experience any added costs as a result of this change; however that provider may lose business as a result of increased competition in the marketplace.

7. Please provide a statement on the proposed rule's impact on economic development.

The adoption of this proposed rule will have a positive impact on economic development. The Preadmission Screening System Providing Options and Resources Today (PASSPORT) program provides in-home and community-based alternatives to nursing facility care. By allowing consumers to direct their personal care services, the state is providing additional community alternatives.