



Department of  
Aging

**Ted Strickland, Governor**  
**Barbara E. Riley, Director**

## NOTICE

As required by section 119.03 of the Revised Code, ODA will conduct a public hearing to obtain comments regarding the proposed adoption of new rule 173-44-04 of the Administrative Code, the proposed rescission of rules 173-37-01 and 173-42-01 of the Administrative Code, the proposed adoption of new rules 173-37-01 and 173-42-01 of the Administrative Code (to replace the current versions that ODA proposes to rescind), and the proposed amendment of rules 173-38-03 and 173-50-03 of the Administrative Code.

ODA will conduct the public hearing on **December 21, 2010** in **Conference Rooms 10A and 10B** of the Department's offices at 50 W. Broad Street, **10th Floor**; Columbus, OH 43215. The hearing will begin at **11:00AM** and will continue until all parties in attendance at that time have had an opportunity to provide comment.

### INTRODUCTION

ODA is proposing to adopt new rule 173-44-04 of the Administrative Code, to replace rules 173-37-01 and 173-42-01 of the Administrative Code with new rules of the same number, and to amend rules 173-38-03 and 173-50-03 of the Administrative Code. In doing so, ODA has four basic goals:

1. To implement House Bill № 398 (128th G. A.) which involves creating a unified waiting list in proposed new rule 173-44-04 of the Administrative Code that is compliant with section 173.404 of the Revised Code and removing pre-House Bill № 398 (128th G.A.) waiting-list language from rules 173-37-01, 173-38-03, 173-42-01, and 173-50-03 of the Administrative Code.
2. To comply with section 119.032 of the Revised Code, which requires each state agency to review each rule on or before the rule's designated review date.
3. To comply with Governor Strickland's Executive Order 2008-04S: "Implementing Common Sense Business Regulation," which requires each state agency to write easier-to-read and easier-to-comprehend rules to promote transparency in the agency's regulations. As a result, ODA's proposed new or amended language:
  - a. Complies with the Legislative Service Commission's "Rule Drafting Manual" as found on [http://www.lsc.state.oh.us/rules/rdm06\\_06.pdf](http://www.lsc.state.oh.us/rules/rdm06_06.pdf)
  - b. Incorporates the recommendations of "Advanced Legal Drafting" by Bryan A. Garner (Dallas: LawProse, Inc. © 2007)
  - c. Incorporates the recommendations of "Plain English Writing Tips" as found on [http://business.ohio.gov/docs/RegReform\\_PlainEnglishWritingTips.pdf](http://business.ohio.gov/docs/RegReform_PlainEnglishWritingTips.pdf).
4. Add section 173.404 of the Revised Code to both the "Statutory Authority" and the "Rule Amplifies" sections of the rules.

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**173-37-01 Enrollment process for the choices program.**

Compared to the current version of rule 173-37-01 of the Administrative Code that ODA is proposing to replace with new rules 173-37-01 of the Administrative Code, and addition to the goals mentioned in the introduction to this notice, ODA is proposing to:

1. Reduce the length of the title from "Enrollment process for the choices home and community-based services medicaid waiver program" to "Enrollment process for the choices program."
2. Remove the purpose statement in paragraph (A) of the current rule. The title is sufficient to describe the purpose of the rule.
3. Move the definitions of terms for the rule to the end of the rule, as is ODA's custom for all newly-adopted rules.
4. Replaces the term "PAA" with "ODA's designee" throughout the rule.
5. Replace the definition for "PAA" with a definition for "ODA's designee."
6. Because the Choices Program is now created by section 173.403 of the Revised Code, the definition of "Choices program" reflects this as does the "Rule Amplifies" section at the end of the rule.

**173-38-03 Enrollment process.**

In addition to the goals stated in the introduction to this notice, in this proposed amended rule, ODA is proposing to:

1. Replace all occurrences of "the PAA" with "ODA's designee."
2. Replace "paragraph" with "rule" in paragraph (C)(1) of the rule.
3. Insert "for this rule" after "Definitions" in paragraph (E) of the rule.

**173-42-01 Enrollment process for the PASSPORT home and community-based services medicaid waiver program.**

Compared to the current version of rule 173-42-01 of the Administrative Code that ODA is proposing to replace with new rules 173-42-01 of the Administrative Code, and addition to the goals mentioned in the introduction to this notice, ODA is proposing to:

1. Move the definitions of terms for the rule to the end of the rule, as is ODA's custom for all newly-adopted rules.
2. Replaces the term "PAA" with "ODA's designee" throughout the rule.
3. Replace the definition for "PASSPORT administrative agency" with a definition for "ODA's designee."
4. Add sub-headings to make the rule easier to navigate.
5. Replace the occurrences of "enrollment into PASSPORT" with "Enrollment into the PASSPORT program."

**173-44-04 Unified waiting list.**

ODA is not proposing any changes at this time beyond what is mentioned in the introduction to this notice.

**173-50-03 Enrollment process.**

In addition to the goals stated in the introduction to this notice, in this proposed amended rule, ODA is proposing to remove the space between "JFS" and the numerical identification of the form, so that the form's identification becomes one word. (e.g., "JFS 07200" → "JFS07200")

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Any person may direct written comments or requests for information concerning the proposed actions to Tom Simmons at the Department on or before the date of the hearing by writing to [tsimmons@age.state.oh.us](mailto:tsimmons@age.state.oh.us).