

**Department of
Aging**

John Kasich, Governor
Bonnie Kantor-Burman, Director

NOTICE

H.B. No. 153's amendments to sections 173.401, 173.404, 173.501, and 5111.894 of the Revised Code take effect on September 29, 2011. The amendments will change the **Unified Waiting List** and the Home First component of the Medicaid-Funded Component of the PASSPORT Program, the Medicaid-Funded Component of the Assisted Living Program and PACE, by allowing ODA's designee or a PACE organization to immediately enroll an eligible individual into the program any time a slot is available in the program without the formality of adding and removing the individual from the waiting list. ODA must now amend rule 173-44-04 of the Administrative Code to incorporate this same change into the Administrative Code. ODA proposes to adopt the amendments to the rule on September 29, 2011, the same day that H.B. No. 153's amendments take effect.

ODA will conduct a public hearing to obtain comments concerning ODA's proposed amendment to rule 173-44-04 of the Administrative Code. ODA will conduct the hearing on **August 15, 2011** at 50 W. Broad Street, 10th floor; Conference Rooms A&B; Columbus, OH 43215. The hearing will begin at **1:30PM** and will continue until all parties in attendance at that time have had an opportunity to provide comment.

ODA will consolidate this public hearing with nine other public hearings on August 15, 2011 to reduce the state's administrative expenses and to reduce the general public's costs associated with traveling to Columbus to participate in public hearings.

Any person may direct written comments or requests for information concerning the proposed rule amendments to Tom Simmons, ODA's rules manager, on or before the date of the hearing by writing to rules@age.state.oh.us.

(Please also note the related rule packages regarding the Medicaid-Funded Assisted Living Program, PACE, and the Medicaid-Funded PASSPORT Program.)

INTRODUCTION

ODA is proposing to amend rule 173-44-04 of the Administrative Code. In doing so, ODA has 3 basic goals:

1. To incorporate H.B. No. 153's amendments into the rule. H.B. No. 153's amendments to sections 173.401, 173.404, 173.501, and 5111.894 of the Revised Code take effect on September 29, 2011. The amendments will change the Unified Waiting List and the Home First component of the Medicaid-Funded Component of the PASSPORT Program, the Medicaid-Funded Component of the Assisted Living Program and PACE, by allowing ODA's designee or a PACE organization to immediately enroll an eligible individual into the program any time a slot is available in the program without the formality of adding and removing the individual from the waiting list. ODA must now amend rule 173-44-04 of the Administrative Code to incorporate this same change into the Administrative Code. ODA proposes to adopt the amendments to the rule on September 29, 2011, the same day that H.B. No. 153's amendments take effect.

50 W. Broad Street / 9th Floor
Columbus, OH 43215-3363 U.S.A.
www.aging.ohio.gov

614-466-5500 (Main)
614-466-5741 (Fax)
DIAL 711 (TTY)

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 Kasich's Executive Order 2011-01K "Implementing Common Sense Business Regulation" and S.B. No. 2 (129th G.A.):
 - a. ODA is proposing to adopt the new rules after interested parties and the general public have had opportunities to provide input:
 - i. Interested parties and the general public had the opportunity to testify to the finance committees of the Ohio House of Representatives and the Ohio Senate as those legislative bodies considered public testimony on the amendments that H.B. No. 153 proposed to make to sections 173.401, 173.404, 173.501, and 5111.894 of the Revised Code.
 - ii. From June 30, 2011 to July 11, 2011, ODA posted the proposed amended rules on <http://aging.ohio.gov/information.rules/proposed.aspx> for a public-comment period.
 - b. In 2011, ODA adopted rule 173-44-04 of the Administrative Code after undergoing a similar review process. After reviewing this rule again, ODA has determined that:
 - i. The rule and the proposed amendment to the rule do not burden any Ohio business. The only businesses subject to the rule are ODA's designees and PACE organizations and the rule proposals eliminate an unnecessary process that current rules require of ODA's designees and PACE organizations.
 - ii. ODA wrote the rule and the proposed amendment to the rule in a manner that is as easy to understand as the subject matter permits.

173-44-04 Unified waiting list.

Specifically, ODA is proposing to amend this rule to:

1. Add similarity to the enrollment rule for the Medicaid-funded component of the PASSPORT Program and the enrollment rule for the Medicaid-funded component of the Assisted Living Program by using "individual" instead of "applicant" throughout the rule to refer to the person who applies for the program.
2. Replace "for serving PACE applicants" in paragraph (A) of the rule with "in PACE."
3. Add language to paragraph (A) of the rule to indicate that the Unified Waiting List is for the Medicaid-funded components of the PASSPORT and Assisted Living Programs, not the state-funded components of the PASSPORT and Assisted Living Programs.
4. Replace "the CDJFS" in paragraph (B)(1) of the rule with "ODA's designee."
5. Replace "exceptions" in paragraph (B)(2) of the rule with "exception."
6. Delete "or (B)(3)" from paragraph (B)(2) of the rule.
7. Provide references to ODA's enrollment-process rules in paragraph (B)(2)(b) of the rule for each program.
8. Remove the Home First language from paragraph (B)(3) of the rules. The language now appears in rules 173-38-03, 173-42-03, and 173-50-03 of the Administrative Code.
9. Add "unified" before "waiting list" in two instances in paragraph (B)(3) of the rule.
10. Add paragraph (B)(5) to the rule, which says, "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."
11. Indicate in paragraph (C)(1) of the rule that "assisted living program," as used in this rule, does not refer to the – state-funded component of the Assisted Living Program."

12. Delete the definition of “CDJFS,” because ODA does not use the term in this rule.
13. Insert “medicaid-funded” before “program” in paragraph (C)(2) of the rule.
14. Indicate in paragraph (C)(9) of the rule that “assisted living program,” as used in this rule, does not refer to the – state-funded component of the PASSPORT Program.”
15. Insert “173.01” into the statutory authority section because section 173.01 of the Revised Code gives ODA authority to adopt this rule.