



Department of  
Aging

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

## NOTICE

ODA will conduct a public hearing to obtain comments concerning ODA's proposed rescission of rules and adoption of new rules and amended rules regarding the **Home First Program**, as required by section 119.03 of the Revised Code. ODA will conduct the hearing on **November 30, 2009** in Conference Room A of the Department's offices at 50 W. Broad Street, 9th floor; Columbus, OH 43215. The hearing will begin at **2:00PM** and will continue until all parties in attendance at that time have had an opportunity to provide comment.

### **HOME FIRST PROGRAM now includes PACE**

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

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.

### **HOME FIRST PROGRAM references for PASSPORT**

ODA is proposing to amend rule 173-42-01 of the Administrative Code to comply with changes made by Am. Sub. H. B. № 119 (127th G. A.) and Am. Sub. H. B. № 1 (128th G. A.).

As amended by Am. Sub. H. B. № 1 (128th G. A.), section 173.40 of the Revised Code begins by saying,

As used in sections 173.40 to 173.402 of the Revised Code, "PASSPORT program" means the program created under this section.

Accordingly, ODA is proposing to reference the definition of "PASSPORT program" in rule 173-42-01 of the Administrative Code to that found in section 173.40 of the Revised Code and to consistently use "PASSPORT" throughout the rule, except, for introductory purposes, in the title and in paragraph (A) of the rule, so the reader can differentiate the waiver-funded PASSPORT program regulated by rule 173-42-01 of the Administrative Code from the

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non-waiver funded PASSPORT program of Chapter 173-40 of the Administrative Code.

As amended by Am. Sub. H. B. № 1 (128th G. A.), division (A)(8) of section 173.42 of the Revised Code says,

"PASSPORT administrative agency" means an entity under contract with the department of aging to provide administrative services regarding the PASSPORT program.

Accordingly, ODA is proposing to replace the definition for "PASSPORT administrative agency" in rule 173-42-01 with a reference to the definition above.

Division (B) of section 206.66.64 of Am. Sub. H. B. № 66 (126th G. A.), entitled "INDIVIDUALS MOVED FROM NURSING FACILITIES TO PASSPORT," is cited in the current version of paragraph (F)(2) of rule 173-42-01 of the Administrative Code. As enacted by section 206.66.64 of Am. Sub. H. B. № 66 (126th G. A.), the "Home First" language of interest says,

[E]ach area agency on aging shall determine whether individuals who reside in the area that the area agency on aging serves and are on a waiting list for the PASSPORT program have been admitted to a nursing facility. If an area agency on aging determines that such an individual has been admitted to a nursing facility, the agency shall notify the Long-Term Care Consultation Program administrator serving the area in which the individual resides about the determination. The administrator shall determine whether the PASSPORT program is appropriate for the individual and whether the individual would rather participate in the PASSPORT program than continue residing in the nursing facility. If the administrator determines that the PASSPORT program is appropriate for the individual and the individual would rather participate in the PASSPORT program than continue residing in the nursing facility, the administrator shall so notify the Department of Aging. On receipt of the notice from the administrator, the Department of Aging shall approve the enrollment of the individual in the PASSPORT program regardless of whether other individuals who are not in a nursing facility are ahead of the individual on the PASSPORT program's waiting list.

Am. Sub. H. B. № 119 (127th G. A.) replaced the temporary language above with division (B) of section 173.401 of the Revised Code. As enacted by Am. Sub. H. B. № 119 (127th G. A.), the "Home First" language in section 173.401 of the Revised Code says,

[E]ach area agency on aging shall determine whether individuals who reside in the area that the area agency on aging serves and are on a waiting list for the PASSPORT program have been admitted to a nursing facility. If an area agency on aging determines that such an individual has been admitted to a nursing facility, the agency shall notify the long-term care consultation program administrator serving the area in which the individual resides about the determination. The administrator shall determine whether the PASSPORT program is appropriate for the individual and whether the individual would rather participate in the PASSPORT program than continue residing in the nursing facility. If the administrator determines that the PASSPORT program is appropriate for the individual and the individual would rather participate in the PASSPORT program than continue residing in the nursing facility, the administrator shall so notify the department of aging. On receipt of the notice from the administrator, the department of aging shall approve the individual's enrollment in the PASSPORT program regardless of the PASSPORT program's waiting list and even though the enrollment causes enrollment in the program to exceed the limit that would otherwise apply....

Accordingly, ODA is proposing to remove the citation of the temporary mandate made in paragraph (F)(2) of rule 173-42-01 of the Administrative Code. In its place, ODA is proposing to cite section 173.401 of the Revised Code in the "Rule Amplifies" section at the end of the rule.

Additionally, ODA is proposing to make the following non-substantive amendments to the definitions portion of the rule:

- After "Definitions" in paragraph (B) of the rule, ODA is adding "for this rule:"
- In paragraph (B)(1) of this rule, ODA is deleting "the local" and placing "county department of job and family services" in quotation marks.
- In paragraph (B)(2) of the rule, ODA is replacing "Facility" with "facility."
- In paragraph (B)(3) of the rule, ODA is placing "the Ohio department of job and family services" in quotation marks.

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).