

**Note:** Upload completed document to the Electronic Rule Filing System.

Hearing Date: 5/16/2023

Today's Date: 5/31/2023

Agency: Ohio Department of Aging

Rule Number(s): 173-39-02.13, 173-39-02.18

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If no comments at the hearing, please check the box.

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List organizations or individuals giving or submitting testimony before, during or after the public hearing and indicate the rule number(s) in question.

1. Central Ohio Area Agency on Aging

2. Gayle Wanamaker

3. A 3<sup>rd</sup> testimony was withdrawn.

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## Hearing Summary Report

### **Consolidated Summary of Comments Received**

Please review all comments received and complete a consolidated summary paragraph of the comments and indicate the rule number(s).

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The AAA asked ODA to add new language to the rule to indicate whether the requirement in section 4766.14 of the Revised Code for a statement from a physician could also come from another licensed healthcare professional.

Ms. Wanamaker wanted to explain the issues that she has experienced with non-emergency medical transportation (NEMT) provided through the Medicaid state plan and coordinated by county departments of job and family services.

## Hearing Summary Report

### **Incorporated Comments into Rule(s)**

Indicate how comments received during the hearing process were incorporated into the rule(s). If no comments were incorporated, explain why not.

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Regarding the AAA's request: On May 18, 2023, ODA made a revised filing of this rule to insert, "as amplified in paragraph (A)(8) of rule 4766-3-13 of the Administrative Code," in paragraph (B)(3)(a) of this rule after, "The provider may hire a person to be a driver only if the person meets all the requirements for drivers under divisions (A)(3) to (B) of section 4766.14 of the Revised Code."

Regarding Ms. Wanamaker's Testimony: ODA informed Ms. Wanamaker that our business impact analysis explained why the PASSPORT Program will no longer pay for NEMT. It said, "CMS will no longer approve of offering NEMT through the PASSPORT Program because (1) 42 CFR 431.53 requires every state's Medicaid state plan to ensure necessary transportation for beneficiaries to and from [medical] providers; and (2) 42 CFR 441.350 limits the services offered through a 65+ Medicaid-waiver-authorized program (e.g., the PASSPORT Program) to services that are not covered under our Medicaid state plan." Ohio does not have an option to change these federal rules or reverse CMS' decision to enforce those rules.

We further explained that ODA is rescinding rule 173-39-02.18 of the Administrative Code because ODA no longer needs to maintain a rule on certifying NEMT providers if the PASSPORT Program is no longer allowed to pay for NEMT.

We also recommended working with ODM to improve NEMT provided through the Medicaid state plan.