



# THE PUBLIC'S COMMENTS & ODA'S RESPONSES

ODA thanks all who submitted comments during the public comment period.

Proposed amendments to Chapter 173-40 of the Administrative Code  
Period rules posted on ODA web site: June 30, 2011 to July 11, 2011  
Date of this document: July 28, 2011

## RULE 173-40-01

	THE PUBLIC'S COMMENTS	ODA'S RESPONSES
1	(B)(5) "Service plan- The Association recommends ODA and ODJFS use the same definition. This term is used only in the "covered services" rule language and the context is that providers should not provide any services "not authorized" in the service plan, which the PAAs agree. But 04a has also made comment to ODJFS to ensure Ohio rules are in waiver compliance with CMS terminology that uses 'plan of care' in relation to Person-Centered Care planning process and determination of needed services. We believe it is prudent to use CMS terminology in intent of authorized services."  [The Ohio Association of Area Agencies on Aging]	ODA agrees that it's important to use terms consistently between Ohio's various Medicaid-funded programs and between the Medicaid-funded components and state-funded components of Ohio's home and community based programs.  The Centers for Medicare and Medicaid Services (CMS) uses the term "service plan" and says, "the terminology 'participant-centered service plan' or 'service plan' is synonymous with 'plan of care.'" <sup>1</sup> Additionally, many of ODA's other rules use "service plan." Therefore, ODA has revised the rules of this chapter to replace the uses of "plan of care" and "care plan" with "service plan."
2	(B)(6) "Representative- The PAAs have recognized that this term and definition are not consistent across all PASSPORT waiver rules by ODJFS and ODA. The Association recommends ODA review rule language regarding "Authorized Representatives" and its definition and standardize for clarity."  [The Ohio Association of Area Agencies on Aging]	ODA has revise-filed this rule and other ODA rules recently filed with the Joint Committee on Agency Rule Review to consistently use the same definition for our Medicaid-related programs.

## RULE 173-40-02

	THE PUBLIC'S COMMENTS	ODA'S RESPONSES
1	(A)(1)(e): "There is a typo on page 1 section (A)(1)(e) line 3: 'rue' should be 'rule.'  [Joyce Boling, Chief of Quality Management; Ohio District 5 Area Agency on Aging, Inc.]	ODA corrected this mistake before filing the rule with the Joint Committee on Agency Rule Review.

<sup>1</sup> Centers for Medicare and Medicaid Services. "Application for a §1915(c) Home and Community-Based Waiver [Version 3.5]: Instructions, Technical Guide and Review Criteria." © January, 2008. Pg., 55.

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2	(A)(3)(d)(i): "There is a typo on page 3 section (d)(1) line 1: 'enrolment' should be 'enrollment'."  [Joyce Boling, Chief of Quality Management; Ohio District 5 Area Agency on Aging, Inc.]	ODA corrected this mistake before filing the rule with the Joint Committee on Agency Rule Review.
3	(C): "This section prohibits presumptive re-enrollment of previously enrolled consumers who lose Medicaid eligibility. Although the Association understands that this re-enrollment limitation may be needed in some form, we ask ODA to clarify this presumptive re-enrollment limitation by ensuring first there are no legitimate reasons for presumptive re-enrollment of previously enrolled consumers that should be addressed in this section. We highly recommend this to ensure consumers have appropriate access to HCBS and understand it would be person-centered approach per individual case."  [The Ohio Association of Area Agencies on Aging]	The intent of presumptive eligibility is to allow an individual to begin receiving services if ODA's designee has no reason to doubt that the individual meets the financial eligibility requirements for the Medicaid-funded component of the PASSPORT Program. If a CDJFS determines that a presumptively-enrolled individual does <i>not</i> meet the financial-eligibility criteria, it is clear and obvious that the individual is not eligible for the state-funded component of the PASSPORT Program. The individual could later enroll in the Medicaid-funded component of the PASSPORT Program, but only after the CDJFS determines that the individual meets the financial-eligibility criteria for the program. <sup>2</sup>

### RULE 173-40-03

	THE PUBLIC'S COMMENTS	ODA'S RESPONSES
1	(A)(1)(a): "(A)(1)(a) States: 'ODA's designee shall notify the consumer of the last day that the state-funded component of the PASSPORT program will pay the consumer's home and community-based services.' The Association recommends an additional clarification that this applies unless the person is transitioning to the Medicaid-funded component of the PASSPORT program."  [The Ohio Association of Area Agencies on Aging]	When a AAA enrolls a person on the state-funded component of the PASSPORT Program, the person should know that state funds that are paying for the service. When the person is disenrolled from the state-funded component, they should be told that they are being disenrolled from the state-funded component because they no longer meet the criteria to continue on state-funded component of the PASSPORT Program or because their Medicaid eligibility has been approved and the Medicaid-funded component of the PASSPORT Program will now be paying for their services.

<sup>2</sup> Cf., See the proposed new language in paragraphs (A)(3)(a) and (A)(3)(b) of rule 173-40-03 of the Administrative Code.