

As Introduced

**127th General Assembly
Regular Session
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S. B. No. 5

Senator Carey

Cosponsors: Senators Cates, Coughlin, Schuring, Austria

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A B I L L

To amend sections 5111.89 and 5111.891 and to enact 1
sections 173.351, 173.401, and 5111.894 of the 2
Revised Code to revise the law governing the 3
PASSPORT, Assisted Living Medicaid waiver, and 4
Residential State Supplement programs and to allow 5
for the transfer of funds for the operation of the 6
programs. 7

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 5111.89 and 5111.891 be amended and 8
sections 173.351, 173.401, and 5111.894 of the Revised Code be 9
enacted to read as follows: 10

Sec. 173.351. (A) As used in this section: 11

"Area agency on aging" has the same meaning as in section 12
173.14 of the Revised Code. 13

"Long-term care consultation program" means the program the 14
department of aging is required to develop under section 173.42 of 15
the Revised Code. 16

"Long-term care consultation program administrator" or 17
"administrator" means the department of aging or, if the 18

department contracts with an area agency on aging or other entity 19
to administer the long-term care consultation program for a 20
particular area, that agency or entity. 21

"Nursing facility" has the same meaning as in section 5111.20 22
of the Revised Code. 23

"Residential state supplement program" means the program 24
administered pursuant to section 173.35 of the Revised Code. 25

(B) Each month, each area agency on aging shall determine 26
whether individuals who reside in the area that the area agency on 27
aging serves and are on a waiting list for the residential state 28
supplement program have been admitted to a nursing facility. If an 29
area agency on aging determines that such an individual has been 30
admitted to a nursing facility, the agency shall notify the 31
long-term care consultation program administrator serving the area 32
in which the individual resides about the determination. The 33
administrator shall determine whether the residential state 34
supplement program is appropriate for the individual and whether 35
the individual would rather participate in the program than 36
continue residing in the nursing facility. If the administrator 37
determines that the residential state supplement program is 38
appropriate for the individual and the individual would rather 39
participate in the program than continue residing in the nursing 40
facility, the administrator shall so notify the department of 41
aging. On receipt of the notice from the administrator, the 42
department of aging shall approve the individual's enrollment in 43
the residential state supplement program regardless of the 44
program's waiting list and even though the enrollment causes 45
enrollment in the program to exceed the limit that would otherwise 46
apply. Each quarter, the department of aging shall certify to the 47
director of budget and management the estimated increase in costs 48
of the residential state supplement program resulting from 49
enrollment of individuals in the program pursuant to this section. 50

(C) Not later than the last day of each calendar year, the director of aging shall submit to the general assembly a report regarding the number of individuals enrolled in the residential state supplement program pursuant to this section and the costs incurred and savings achieved as a result of the enrollments. 51
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Sec. 173.401. (A) As used in this section: 56

"Area agency on aging" has the same meaning as in section 173.14 of the Revised Code. 57
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"Long-term care consultation program" means the program the department of aging is required to develop under section 173.42 of the Revised Code. 59
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"Long-term care consultation program administrator" or "administrator" means the department of aging or, if the department contracts with an area agency on aging or other entity to administer the long-term care consultation program for a particular area, that agency or entity. 62
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"Nursing facility" has the same meaning as in section 5111.20 of the Revised Code. 67
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"PASSPORT program" means the program created under section 173.40 of the Revised Code. 69
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"PASSPORT waiver" means the federal medicaid waiver granted by the United States secretary of health and human services that authorizes the PASSPORT program. 71
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(B) The director of job and family services shall submit to the United States secretary of health and human services an amendment to the PASSPORT waiver that authorizes additional enrollments in the PASSPORT program pursuant to this section. Beginning with the month following the month in which the United States secretary approves the amendment and each month thereafter, each area agency on aging shall determine whether individuals who 74
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reside in the area that the area agency on aging serves and are on 81
a waiting list for the PASSPORT program have been admitted to a 82
nursing facility. If an area agency on aging determines that such 83
an individual has been admitted to a nursing facility, the agency 84
shall notify the long-term care consultation program administrator 85
serving the area in which the individual resides about the 86
determination. The administrator shall determine whether the 87
PASSPORT program is appropriate for the individual and whether the 88
individual would rather participate in the PASSPORT program than 89
continue residing in the nursing facility. If the administrator 90
determines that the PASSPORT program is appropriate for the 91
individual and the individual would rather participate in the 92
PASSPORT program than continue residing in the nursing facility, 93
the administrator shall so notify the department of aging. On 94
receipt of the notice from the administrator, the department of 95
aging shall approve the individual's enrollment in the PASSPORT 96
program regardless of the PASSPORT program's waiting list and even 97
though the enrollment causes enrollment in the program to exceed 98
the limit that would otherwise apply. Each quarter, the department 99
of aging shall certify to the director of budget and management 100
the estimated increase in costs of the PASSPORT program resulting 101
from enrollment of individuals in the PASSPORT program pursuant to 102
this section. 103

(C) Not later than the last day of each calendar year, the 104
director of job and family services shall submit to the general 105
assembly a report regarding the number of individuals enrolled in 106
the PASSPORT program pursuant to this section and the costs 107
incurred and savings achieved as a result of the enrollments. 108

Sec. 5111.89. (A) As used in sections 5111.89 to ~~5111.893~~ 109
5111.894 of the Revised Code: 110

"Area agency on aging" has the same meaning as in section 111

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| <u>173.14 of the Revised Code.</u> | 112 |
| "Assisted living program" means the medicaid waiver component | 113 |
| for which the director of job and family services is authorized by | 114 |
| this section to request a medicaid waiver. | 115 |
| "Assisted living services" means the following home and | 116 |
| community-based services: personal care, homemaker, chore, | 117 |
| attendant care, companion, medication oversight, and therapeutic | 118 |
| social and recreational programming. | 119 |
| "County or district home" means a county or district home | 120 |
| operated under Chapter 5155. of the Revised Code. | 121 |
| <u>"Long-term care consultation program" means the program the</u> | 122 |
| <u>department of aging is required to develop under section 173.42 of</u> | 123 |
| <u>the Revised Code.</u> | 124 |
| <u>"Long-term care consultation program administrator" or</u> | 125 |
| <u>"administrator" means the department of aging or, if the</u> | 126 |
| <u>department contracts with an area agency on aging or other entity</u> | 127 |
| <u>to administer the long-term care consultation program for a</u> | 128 |
| <u>particular area, that agency or entity.</u> | 129 |
| "Medicaid waiver component" has the same meaning as in | 130 |
| section 5111.85 of the Revised Code. | 131 |
| "Nursing facility" has the same meaning as in section 5111.20 | 132 |
| of the Revised Code. | 133 |
| "Residential care facility" has the same meaning as in | 134 |
| section 3721.01 of the Revised Code. | 135 |
| <u>"Residential state supplement program" means the program</u> | 136 |
| <u>administered by the department of aging under section 173.35 of</u> | 137 |
| <u>the Revised Code.</u> | 138 |
| (B) The director of job and family services may submit a | 139 |
| request to the United States secretary of health and human | 140 |
| services under 42 U.S.C. 1396n to obtain a waiver of federal | 141 |

medicaid requirements that would otherwise be violated in the 142
creation and implementation of a program under which assisted 143
living services are provided to not more than one thousand eight 144
hundred individuals who meet the program's eligibility 145
requirements established under section 5111.891 of the Revised 146
Code. 147

If the secretary approves the medicaid waiver requested under 148
this section and the director of budget and management approves 149
the contract, the department of job and family services shall 150
enter into a contract with the department of aging under section 151
5111.91 of the Revised Code that provides for the department of 152
aging to administer the assisted living program. The contract 153
shall include an estimate of the program's costs. 154

The director of job and family services may adopt rules under 155
section 5111.85 of the Revised Code regarding the assisted living 156
program. The director of aging may adopt rules under Chapter 119. 157
of the Revised Code regarding the program that the rules adopted 158
by the director of job and family services authorize the director 159
of aging to adopt. 160

Sec. 5111.891. To be eligible for the assisted living 161
program, an individual must meet all of the following 162
requirements: 163

(A) Need an intermediate level of care as determined under 164
rule 5101:3-3-06 of the Administrative Code; 165

(B) At the time the individual applies for the assisted 166
living program, be one of the following: 167

(1) A nursing facility resident who is seeking to move to a 168
residential care facility and would remain in a nursing facility 169
for long term care if not for the assisted living program; 170

(2) A participant of any of the following medicaid waiver 171

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| components who would move to a nursing facility if not for the | 172 |
| assisted living program: | 173 |
| (a) The PASSPORT program created under section 173.40 of the | 174 |
| Revised Code; | 175 |
| (b) The medicaid waiver component called the choices program | 176 |
| that the department of aging administers; | 177 |
| (c) A medicaid waiver component that the department of job | 178 |
| and family services administers. | 179 |
| <u>(3) A resident of a residential care facility who has resided</u> | 180 |
| <u>in a residential care facility for at least six months immediately</u> | 181 |
| <u>before the date the individual applies for the assisted living</u> | 182 |
| <u>program;</u> | 183 |
| <u>(4) An individual who is on a waiting list for the</u> | 184 |
| <u>residential state supplement program.</u> | 185 |
| (C) At the time the individual receives assisted living | 186 |
| services under the assisted living program, reside in a | 187 |
| residential care facility, including both of the following: | 188 |
| (1) A residential care facility that is owned or operated by | 189 |
| a metropolitan housing authority that has a contract with the | 190 |
| United States department of housing and urban development to | 191 |
| receive an operating subsidy or rental assistance for the | 192 |
| residents of the facility; | 193 |
| (2) A county or district home licensed as a residential care | 194 |
| facility. | 195 |
| (D) Meet all other eligibility requirements for the assisted | 196 |
| living program established in rules adopted under section 5111.85 | 197 |
| of the Revised Code. | 198 |
| <u>Sec. 5111.894. When an area agency on aging determines that</u> | 199 |
| <u>an individual who is eligible for the medicaid program and resides</u> | 200 |

in the area that the area agency on aging serves has been admitted 201
to a nursing facility, the agency shall notify the long-term care 202
consultation program administrator serving the area in which the 203
individual resides about the determination. The administrator 204
shall determine whether the assisted living program is appropriate 205
for the individual and whether the individual would rather 206
participate in the assisted living program than continue residing 207
in the nursing facility. If the administrator determines that the 208
assisted living program is appropriate for the individual and the 209
individual would rather participate in the assisted living program 210
than continue residing in the nursing facility, the administrator 211
shall provide the individual or individual's representative 212
information about how to apply for the assisted living program and 213
whether there is a waiting list for the assisted living program. 214

Section 2. That existing sections 5111.89 and 5111.891 of the 215
Revised Code are hereby repealed. 216

Section 3. On a quarterly basis, on receipt of the certified 217
costs, the Director of Budget and Management shall do all of the 218
following: 219

(1) Transfer the state share of the amount of the estimated 220
costs from GRF appropriation item 600-525, Health Care/Medicaid, 221
to GRF appropriation item 490-403, PASSPORT, for the remainder of 222
the biennium; 223

(2) Increase the appropriation in Ohio Department of Aging 224
Fund 3C4, appropriation item 490-607, PASSPORT, by the federal 225
share of the amount of the estimated costs; 226

(3) Increase the appropriation in JFS Fund 3G5, appropriation 227
item 600-655, Interagency Reimbursement, by the federal share of 228
the amount of the estimated costs. 229

The funds that the Director of Budget and Management 230
transfers and increases under this division are hereby 231
appropriated. 232

Section 4. On a quarterly basis, on receipt of the certified 233
costs, the Director of Budget and Management shall do all of the 234
following: 235

(1) Transfer the state share of the amount of the estimated 236
costs from GRF appropriation item 600-525, Health Care/Medicaid, 237
to GRF appropriation item 490-412, Residential State Supplement, 238
for the remainder of the biennium; 239

(2) The Department of Aging may transfer cash by intrastate 240
transfer vouchers from the foregoing appropriation items 490-412, 241
Residential State Supplement, and 490-610, PASSPORT/Residential 242
State Supplement, to the Department of Job and Family Services' 243
Fund 4J5, Home and Community-Based Services for the Aged Fund. The 244
funds shall be used to make benefit payments to Residential State 245
Supplement recipients. 246

The funds that the Director of Budget and Management 247
transfers and increases under this division are hereby 248
appropriated. 249

Section 5. The sections of law in this act are not subject to 250
the referendum. Therefore, under Ohio Constitution, Article II, 251
Section 1d and section 1.471 of the Revised Code, the sections of 252
law in this act go into immediate effect when this act becomes 253
law. 254