

As Passed by the Senate

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Sub. S. B. No. 5

Senator Carey

**Cosponsors: Senators Cates, Coughlin, Schuring, Austria, Gardner, Stivers,
Clancy, Miller, D., Roberts, Miller, R., Kearney, Niehaus, Fedor, Goodman,
Grendell, Harris, Mason, Padgett, Schaffer, Spada, Wilson, J., Sawyer,
Morano, Cafaro, Mumper, Smith**

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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 and to make an appropriation. 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 51
director of aging shall submit to the general assembly a report 52
regarding the number of individuals enrolled in the residential 53
state supplement program pursuant to this section and the costs 54
incurred and savings achieved as a result of the enrollments. 55

Sec. 173.401. (A) As used in this section: 56

"Area agency on aging" has the same meaning as in section 57
173.14 of the Revised Code. 58

"Long-term care consultation program" means the program the 59
department of aging is required to develop under section 173.42 of 60
the Revised Code. 61

"Long-term care consultation program administrator" or 62
"administrator" means the department of aging or, if the 63
department contracts with an area agency on aging or other entity 64
to administer the long-term care consultation program for a 65
particular area, that agency or entity. 66

"Nursing facility" has the same meaning as in section 5111.20 67
of the Revised Code. 68

"PASSPORT program" means the program created under section 69
173.40 of the Revised Code. 70

"PASSPORT waiver" means the federal medicaid waiver granted 71
by the United States secretary of health and human services that 72
authorizes the PASSPORT program. 73

(B) The director of job and family services shall submit to 74
the United States secretary of health and human services an 75
amendment to the PASSPORT waiver that authorizes additional 76
enrollments in the PASSPORT program pursuant to this section. 77

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 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. Each quarter, the department of aging shall certify to the director of budget and management the estimated increase in costs of the PASSPORT program resulting from enrollment of individuals in the PASSPORT program pursuant to this section.

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

Sec. 5111.89. (A) As used in sections 5111.89 to ~~5111.893~~ 109

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| <u>5111.894</u> of the Revised Code: | 110 |
| <u>"Area agency on aging" has the same meaning as in section</u> | 111 |
| <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 request to the United States secretary of health and human services under 42 U.S.C. 1396n to obtain a waiver of federal medicaid requirements that would otherwise be violated in the creation and implementation of a program under which assisted living services are provided to not more than one thousand eight hundred individuals who meet the program's eligibility requirements established under section 5111.891 of the Revised Code.

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

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

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

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

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

(1) A nursing facility resident who is seeking to move to a

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| 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 |
| 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 |

Sec. 5111.894. When an area agency on aging determines that 199
an individual who is eligible for the medicaid program and resides 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
PASSPORT costs related to section 173.401 of the Revised Code, the 218
Director of Budget and Management shall do all of the following 219
for the remainder of the 2006-2007 biennium: 220

(1) Transfer the state share of the amount of the estimated 221
costs from GRF appropriation item 600-525, Health Care/Medicaid, 222
to GRF appropriation item 490-403, PASSPORT; 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
PASSPORT costs related to section 173.401 of the Revised Code, the 234
Director of Budget and Management shall do all of the following 235
for fiscal years 2008 and 2009: 236

(1) Transfer the state share of the amount of the estimated 237
costs from GRF appropriation item 600-525, Health Care/Medicaid, 238
to GRF appropriation item 490-403, PASSPORT; 239

(2) Increase the appropriation in Ohio Department of Aging 240
Fund 3C4, appropriation item 490-607, PASSPORT, by the federal 241
share of the amount of the estimated costs; 242

(3) Increase the appropriation in the Department of Job and 243
Family Services Fund 3G5, appropriation item 600-655, Interagency 244
Reimbursement, by the federal share of the amount of the estimated 245
costs. 246

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

Section 5. On a quarterly basis, on receipt of the certified 250
residential state supplement costs related to section 173.351 of 251
the Revised Code, the Director of Budget and Management shall do 252
all of the following for the 2006-2007 biennium: 253

(1) Transfer the state share of the amount of the estimated 254
costs from GRF appropriation item 600-525, Health Care/Medicaid, 255
to GRF appropriation item 490-412; 256

(2) The Department of Aging may transfer cash by intrastate 257

transfer vouchers from the foregoing appropriation items 490-412, 258
Residential State Supplement, and 490-610, PASSPORT/Residential 259
State Supplement, to the Department of Job and Family Services' 260
Fund 4J5, Home and Community-Based Services for the Aged Fund. The 261
funds shall be used to make benefit payments to Residential State 262
Supplement recipients. 263

The funds that the Director of Budget and Management 264
transfers and increases under this division are hereby 265
appropriated. 266

Section 6. On a quarterly basis, on receipt of the certified 267
residential state supplement costs related to section 173.351 of 268
the Revised Code, the Director of Budget and Management shall do 269
all of the following for fiscal years 2008 and 2009: 270

(1) Transfer the state share of the amount of the estimated 271
costs from GRF appropriation item 600-525, Health Care/Medicaid, 272
to GRF appropriation item 490-412, Residential State Supplement; 273

(2) The Department of Aging may transfer cash by intrastate 274
transfer vouchers from the foregoing appropriation item 490-412, 275
Residential State Supplement, and 490-610, PASSPORT/Residential 276
State Supplement, to the Department of Job and Family Services 277
Fund 4J5, Home and Community-Based Services for the Aged Fund. The 278
funds shall be used to make benefit payments to Residential State 279
Supplement recipients. 280

The funds that the Director of Budget and Management 281
transfers and increases under this division are hereby 282
appropriated. 283

Section 7. The sections of law in this act are not subject to 284
the referendum. Therefore, under Ohio Constitution, Article II, 285
Section 1d and section 1.471 of the Revised Code, the sections of 286
law in this act go into immediate effect when this act becomes 287

law.

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