

**As Reported by the Senate Finance and Financial Institutions  
Committee**

**127th General Assembly  
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2007-2008**

**Sub. S. B. No. 5**

**Senator Carey**

**Cosponsors: Senators Cates, Coughlin, Schuring, Austria, Gardner, Stivers,  
Clancy, Miller, D., Roberts, Miller, R., Kearney, Niehaus**

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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 78

States secretary approves the amendment and each month thereafter, 79  
each area agency on aging shall determine whether individuals who 80  
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

<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	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 components who would move to a nursing facility if not for the assisted living program:	171 172 173
(a) The PASSPORT program created under section 173.40 of the Revised Code;	174 175
(b) The medicaid waiver component called the choices program that the department of aging administers;	176 177
(c) A medicaid waiver component that the department of job and family services administers.	178 179
<u>(3) A resident of a residential care facility who has resided in a residential care facility for at least six months immediately before the date the individual applies for the assisted living program;</u>	180 181 182 183
<u>(4) An individual who is on a waiting list for the residential state supplement program.</u>	184 185
(C) At the time the individual receives assisted living services under the assisted living program, reside in a residential care facility, including both of the following:	186 187 188
(1) A residential care facility that is owned or operated by a metropolitan housing authority that has a contract with the United States department of housing and urban development to receive an operating subsidy or rental assistance for the residents of the facility;	189 190 191 192 193
(2) A county or district home licensed as a residential care facility.	194 195
(D) Meet all other eligibility requirements for the assisted living program established in rules adopted under section 5111.85 of the Revised Code.	196 197 198
<u>Sec. 5111.894. When an area agency on aging determines that</u>	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. 288