Appendix 1

Ohio Revised Code Ch. 173

A public notice requirement pertaining to the contract shall be considered as having been met if the public notice is given once a week for at least two consecutive weeks in a newspaper of general circulation within a county in this state in which the council has members and if the notice is posted on the council's internet web site for at least two consecutive weeks before the date specified for receiving bids.

A county, municipal corporation, or township and a special district, school district, or other political subdivision that is a council member may participate in a contract entered into under this section. Purchases under a contract entered into under this section are exempt from any competitive selection or bidding requirements otherwise required by law. A county, municipal corporation, or township or a special district, school district, or other political subdivision that is a member of the council is not entitled to participate in a contract entered into under this section if it has received bids for the same work under another contract, unless participation in a contract under this section will enable the member to obtain the same work, upon the same terms, conditions, and specifications, at a lower price.

Sec. 173.14. As used in sections 173.14 to 173.27 of the Revised Code:

(A)(1) Except as otherwise provided in division (A)(2) of this section, "long-term care facility" includes any residential facility that provides personal care services for more than twenty-four hours for two or more unrelated adults, including all of the following:

(a) A "nursing home," "residential care facility," or "home for the aging" as defined in section 3721.01 of the Revised Code;

(b) A facility authorized to provide extended care services under Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as amended, including a long-term acute care hospital that provides medical and rehabilitative care to patients who require an average length of stay greater than twenty-five days and is classified by the centers for medicare and medicaid services as a long-term care hospital pursuant to 42 C.F.R. 412.23(e);

(c) A county home or district home operated pursuant to Chapter 5155. of the Revised Code;

(d) An "adult care facility" as defined in section ~~3722.01~~ 5119.70 of the Revised Code;

(e) A facility approved by the veterans administration under section 104(a) of the "Veterans Health Care Amendments of 1983," 97 Stat. 993, 38 U.S.C. 630, as amended, and used exclusively for the placement and care of veterans;

(f) An adult foster home certified under section ~~173.36~~ 5119.692 of the

Revised Code.

(2) "Long-term care facility" does not include a "residential facility" as defined in section 5119.22 of the Revised Code or a "residential facility" as defined in section 5123.19 of the Revised Code.

(B) "Resident" means a resident of a long-term care facility and, where appropriate, includes a prospective, previous, or deceased resident of a long-term care facility.

(C) "Community-based long-term care services" means health and social services provided to persons in their own homes or in community care settings, and includes any of the following:

(1) Case management;

(2) Home health care;

(3) Homemaker services;

(4) Chore services;

(5) Respite care;

(6) Adult day care;

(7) Home-delivered meals;

(8) Personal care;

(9) Physical, occupational, and speech therapy;

(10) Transportation;

(11) Any other health and social services provided to persons that allow them to retain their independence in their own homes or in community care settings.

(D) "Recipient" means a recipient of community-based long-term care services and, where appropriate, includes a prospective, previous, or deceased recipient of community-based long-term care services.

(E) "Sponsor" means an adult relative, friend, or guardian who has an interest in or responsibility for the welfare of a resident or a recipient.

(F) "Personal care services" has the same meaning as in section 3721.01 of the Revised Code.

(G) "Regional long-term care ombudsperson program" means an entity, either public or private and nonprofit, designated as a regional long-term care ombudsperson program by the state long-term care ombudsperson.

(H) "Representative of the office of the state long-term care ombudsperson program" means the state long-term care ombudsperson or a member of the ombudsperson's staff, or a person certified as a representative of the office under section 173.21 of the Revised Code.

(I) "Area agency on aging" means an area agency on aging established under the "Older Americans Act of 1965," 79 Stat. 219, 42 U.S.C.A. 3001, as amended.

Sec. 173.21. (A) The office of the state long-term care ~~ombudsman~~ ombudsperson program, through the state long-term care ~~ombudsman~~ ombudsperson and the regional long-term care ~~ombudsman~~ ombudsperson programs, shall require each representative of the office to complete a training and certification program in accordance with this section and to meet the continuing education requirements established under this section.

(B) The department of aging shall adopt rules under Chapter 119. of the Revised Code specifying the content of training programs for representatives of the office of the state long-term care ~~ombudsman~~ ombudsperson program. Training for representatives other than those who are volunteers providing services through regional long-term care ~~ombudsman~~ ombudsperson programs shall include instruction regarding federal, state, and local laws, rules, and policies on long-term care facilities and community-based long-term care services; investigative techniques; and other topics considered relevant by the department and shall consist of the following:

(1) A minimum of forty clock hours of basic instruction, which shall be completed before the trainee is permitted to handle complaints without the supervision of a representative of the office certified under this section;

(2) An additional sixty clock hours of instruction, which shall be completed within the first fifteen months of employment;

(3) An internship of twenty clock hours, which shall be completed within the first twenty-four months of employment, including instruction in, and observation of, basic nursing care and long-term care provider operations and procedures. The internship shall be performed at a site that has been approved as an internship site by the state long-term care ~~ombudsman~~ ombudsperson.

(4) One of the following, which shall be completed within the first twenty-four months of employment:

(a) Observation of a survey conducted by the director of health to certify a facility to receive funds under sections 5111.20 to 5111.32 of the Revised Code;

(b) Observation of an inspection conducted by the director of mental health to license an adult care facility under section ~~3722.04~~ 5119.73 of the Revised Code.

(5) Any other training considered appropriate by the department.

(C) Persons who for a period of at least six months prior to June 11, 1990, served as ombudsmen through the long-term care ~~ombudsman~~ ombudsperson program established by the department of aging under division (M) of section 173.01 of the Revised Code shall not be required to

complete a training program. These persons and persons who complete a training program shall take an examination administered by the department of aging. On attainment of a passing score, the person shall be certified by the department as a representative of the office. The department shall issue the person an identification card, which the representative shall show at the request of any person with whom ~~he~~ the representative deals while performing ~~his~~ the representative's duties and which ~~he~~ shall ~~surrender~~ be surrendered at the time ~~he~~ the representative separates from the office.

(D) The state ~~ombudsman~~ ombudsperson and each regional program shall conduct training programs for volunteers on their respective staffs in accordance with the rules of the department of aging adopted under division (B) of this section. Training programs may be conducted that train volunteers to complete some, but not all, of the duties of a representative of the office. Each regional office shall bear the cost of training its representatives who are volunteers. On completion of a training program, the representative shall take an examination administered by the department of aging. On attainment of a passing score, ~~he~~ a volunteer shall be certified by the department as a representative authorized to perform services specified in the certification. The department shall issue an identification card, which the representative shall show at the request of any person with whom ~~he~~ the representative deals while performing ~~his~~ the representative's duties and which ~~he~~ shall ~~surrender~~ be surrendered at the time ~~he~~ the representative separates from the office. Except as a supervised part of a training program, no volunteer shall perform any duty unless he is certified as a representative having received appropriate training for that duty.

(E) The state ~~ombudsman~~ ombudsperson shall provide technical assistance to regional programs conducting training programs for volunteers and shall monitor the training programs.

(F) Prior to scheduling an observation of a certification survey or licensing inspection for purposes of division (B)(4) of this section, the state ~~ombudsman~~ ombudsperson shall obtain permission to have the survey or inspection observed from both the director of health and the long-term care facility at which the survey or inspection is to take place.

(G) The department of aging shall establish continuing education requirements for representatives of the office.

Sec. 173.26. (A) Each of the following facilities shall annually pay to the department of aging six dollars for each bed maintained by the facility for use by a resident during any part of the previous year:

(1) Nursing homes, residential care facilities, and homes for the aging as defined in section 3721.01 of the Revised Code;

(2) Facilities authorized to provide extended care services under Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as amended, including a long-term acute care hospital that provides medical and rehabilitative care to patients who require an average length of stay greater than twenty-five days and is classified by the centers for medicare and medicaid services as a long-term care hospital pursuant to 42 C.F.R. 412.23(e);

(3) County homes and district homes operated pursuant to Chapter 5155. of the Revised Code;

(4) Adult care facilities as defined in section ~~3722.01~~ 5119.70 of the Revised Code;

(5) Facilities approved by the Veterans Administration under Section 104(a) of the "Veterans Health Care Amendments of 1983," 97 Stat. 993, 38 U.S.C. 630, as amended, and used exclusively for the placement and care of veterans.

The department shall, by rule adopted in accordance with Chapter 119. of the Revised Code, establish deadlines for payments required by this section. A facility that fails, within ninety days after the established deadline, to pay a payment required by this section shall be assessed at two times the original invoiced payment.

(B) All money collected under this section shall be deposited in the state treasury to the credit of the office of the state long-term care ombudsperson program fund, which is hereby created. Money credited to the fund shall be used solely to pay the costs of operating the regional long-term care ombudsperson programs.

(C) The state long-term care ombudsperson and the regional programs may solicit and receive contributions to support the operation of the office or a regional program, except that no contribution shall be solicited or accepted that would interfere with the independence or objectivity of the office or program.

Sec. 173.391. (A) The department of aging or its designee shall do all of the following in accordance with Chapter 119. of the Revised Code:

(1) Certify a person or government entity to provide community-based long-term care services under a program the department administers if the person or government entity satisfies the requirements for certification established by rules adopted under division (B) of this section and pays the fee, if any, established by rules adopted under division (G) of this section;

(2) When required to do so by rules adopted under division (B) of this section, take one or more of the following disciplinary actions against a person or government entity ~~issued a certificate~~ certified under division

(A)(1) of this section:

(a) Issue a written warning;

(b) Require the submission of a plan of correction or evidence of compliance with requirements identified by the department;

(c) Suspend referrals;

(d) Remove clients;

(e) Impose a fiscal sanction such as a civil monetary penalty or an order that unearned funds be repaid;

(f) Suspend the certification;

(g) Revoke the ~~certificate~~ certification;

~~(g)~~(h) Impose another sanction.

(3) ~~Hold~~ Except as provided in division (E) of this section, hold hearings when there is a dispute between the department or its designee and a person or government entity concerning actions the department or its designee takes ~~or does not take~~ regarding a decision not to certify the person or government entity under division (A)(1) of this section or a disciplinary action under division (A)~~(1) or~~ (2)~~(c)~~(e) to ~~(g)~~(h) of this section.

(B) The director of aging shall adopt rules in accordance with Chapter 119. of the Revised Code establishing certification requirements and standards for determining which type of disciplinary action to take under division (A)(2) of this section in individual situations. The rules shall establish procedures for all of the following:

(1) Ensuring that community-based long-term care agencies comply with section 173.394 of the Revised Code;

(2) Evaluating the services provided by the agencies to ensure that ~~they~~ the services are provided in a quality manner advantageous to the individual receiving the services;

(3) Determining when to take disciplinary action under division (A)(2) of this section and which disciplinary action to take;

(4) Determining what constitutes another sanction for purposes of division (A)(2)(h) of this section.

(C) The procedures established in rules adopted under division (B)(2) of this section shall require that all of the following be considered as part of an evaluation described in division (B)(2) of this section:

(1) The ~~service provider's~~ community-based long-term care agency's experience and financial responsibility;

(2) The ~~service provider's~~ agency's ability to comply with standards for the community-based long-term care services that the ~~provider~~ agency provides under a program the department administers;

(3) The ~~service provider's~~ agency's ability to meet the needs of the

individuals served;

(4) Any other factor the director considers relevant.

(D) The rules adopted under division (B)(3) of this section shall specify that the reasons disciplinary action may be taken under division (A)(2) of this section include good cause, including misfeasance, malfeasance, nonfeasance, confirmed abuse or neglect, financial irresponsibility, or other conduct the director determines is injurious, or poses a threat, to the health or safety of individuals being served.

(E) Subject to division (F) of this section, the department is not required to hold hearings under division (A)(3) of this section if any of the following conditions apply:

(1) Rules adopted by the director of aging pursuant to this chapter require the community-based long-term care agency to be a party to a provider agreement; hold a license, certificate, or permit; or maintain a certification, any of which is required or issued by a state or federal government entity other than the department of aging, and either of the following is the case:

(a) The provider agreement has not been entered into or the license, certificate, permit, or certification has not been obtained or maintained.

(b) The provider agreement, license, certificate, permit, or certification has been denied, revoked, not renewed, or suspended or has been otherwise restricted.

(2) The agency's certification under this section has been denied, suspended, or revoked for any of the following reasons:

(a) A government entity of this state, other than the department of aging, has terminated or refused to renew any of the following held by, or has denied any of the following sought by, a community-based long-term care agency: a provider agreement, license, certificate, permit, or certification. Division (E)(2)(a) of this section applies regardless of whether the agency has entered into a provider agreement in, or holds a license, certificate, permit, or certification issued by, another state.

(b) The agency or a principal owner or manager of the agency who provides direct care has entered a guilty plea for, or has been convicted of, an offense materially related to the medicaid program.

(c) The agency or a principal owner or manager of the agency who provides direct care has entered a guilty plea for, or been convicted of, an offense listed in division (C)(1)(a) of section 173.394 of the Revised Code, but only if none of the personal character standards established by the department in rules adopted under division (F) of section 173.394 of the Revised Code apply.

(d) The United States department of health and human services has taken adverse action against the agency and that action impacts the agency's participation in the medicaid program.

(e) The agency has failed to enter into or renew a provider agreement with the PASSPORT administrative agency, as that term is defined in section 173.42 of the Revised Code, that administers programs on behalf of the department of aging in the region of the state in which the agency is certified to provide services.

(f) The agency has not billed or otherwise submitted a claim to the department for payment under the medicaid program in at least two years.

(g) The agency denied or failed to provide the department or its designee access to the agency's facilities during the agency's normal business hours for purposes of conducting an audit or structural compliance review.

(h) The agency has ceased doing business.

(i) The agency has voluntarily relinquished its certification for any reason.

(3) The agency's provider agreement with the department of job and family services has been suspended under division (C) of section 5111.031 of the Revised Code.

(4) The agency's provider agreement with the department of job and family services is denied or revoked because the agency or its owner, officer, authorized agent, associate, manager, or employee has been convicted of an offense that caused the provider agreement to be suspended under section 5111.031 of the Revised Code.

(F) If the department does not hold hearings when any condition described in division (E) of this section applies, the department may send a notice to the agency describing a decision not to certify the agency under division (A)(1) of this section or the disciplinary action the department proposes to take under division (A)(2)(e) to (h) of this section. The notice shall be sent to the agency's address that is on record with the department and may be sent by regular mail.

(G) The director of aging may adopt rules in accordance with Chapter 119. of the Revised Code establishing a fee to be charged by the department of aging or its designee for certification issued under this section.

All fees collected by the department or its designee under this section shall be deposited in the state treasury to the credit of the provider certification fund, which is hereby created. Money credited to the fund shall be used to pay for community-based long-term care services, administrative costs associated with community-based long-term care agency certification

under this section, and administrative costs related to the publication of the Ohio long-term care consumer guide.

Sec. 173.40. (A) As used in sections 173.40 to 173.402 of the Revised Code~~, "PASSPORT~~:

"Medicaid waiver component" has the same meaning as in section 5111.85 of the Revised Code.

"PASSPORT program" means the program created under this section.

"PASSPORT waiver" means the federal medicaid waiver granted by the United States secretary of health and human services that authorizes the medicaid-funded component of the PASSPORT program.

"Unified long-term services and support medicaid waiver component" means the medicaid waiver component authorized by section 5111.864 of the Revised Code.

(B) There is hereby created the preadmission screening system providing options and resources today program, or PASSPORT. The PASSPORT program shall provide home and community-based services as an alternative to nursing facility placement for individuals who are aged and disabled ~~medicaid recipients~~ and meet the program's applicable eligibility requirements. ~~The~~ Subject to division (C) of this section, the program shall have a medicaid-funded component and a state-funded component.

(C)(1) Unless the medicaid-funded component of the PASSPORT program is terminated under division (C)(2) of this section, all of the following apply:

(a) The department of aging shall administer the medicaid-funded component through a contract entered into with the department of job and family services under section 5111.91 of the Revised Code.

(b) The medicaid-funded component shall be operated as a separate medicaid waiver component~~, as defined in section 5111.85 of the Revised Code, until the United States secretary of health and human services approves the consolidated federal medicaid waiver sought under section 5111.861 of the Revised Code~~. ~~The program shall be part of the consolidated federal medicaid waiver sought under that section if the United States secretary approves the waiver. The department of aging shall administer the program through a contract entered into with the department of job and family services under section 5111.91 of the Revised Code. The~~

(c) For an individual to be eligible for the medicaid-funded component, the individual must be a medicaid recipient and meet the additional eligibility requirements applicable to the individual established in rules adopted under division (C)(1)(d) of this section.

(d) The director of job and family services shall adopt rules under

section 5111.85 of the Revised Code and the director of aging shall adopt rules in accordance with Chapter 119. of the Revised Code to implement the ~~program~~ medicaid-funded component.

(2) If the unified long-term services and support medicaid waiver component is created, the departments of aging and job and family services shall work together to determine whether the medicaid-funded component of the PASSPORT program should continue to operate as a separate medicaid waiver component or be terminated. If the departments determine that the medicaid-funded component of the PASSPORT program should be terminated, the medicaid-funded component shall cease to exist on a date the departments shall specify.

(D)(1) The department of aging shall administer the state-funded component of the PASSPORT program. The state-funded component shall not be administered as part of the medicaid program.

(2) For an individual to be eligible for the state-funded component, the individual must meet one of the following requirements and meet the additional eligibility requirements applicable to the individual established in rules adopted under division (D)(4) of this section:

(a) The individual must have been enrolled in the state-funded component on September 1, 1991, (as the state-funded component was authorized by uncodified law in effect at that time) and have had one or more applications for enrollment in the medicaid-funded component (or, if the medicaid-funded component is terminated under division (C)(2) of this section, the unified long-term services and support medicaid waiver component) denied.

(b) The individual must have had the individual's enrollment in the medicaid-funded component (or, if the medicaid-funded component is terminated under division (C)(2) of this section, the unified long-term services and support medicaid waiver component) terminated and the individual must still need the home and community-based services provided under the PASSPORT program to protect the individual's health and safety.

(c) The individual must have an application for the medicaid-funded component (or, if the medicaid-funded component is terminated under division (C)(2) of this section, the unified long-term services and support medicaid waiver component) pending and the department or the department's designee must have determined that the individual meets the nonfinancial eligibility requirements of the medicaid-funded component (or, if the medicaid-funded component is terminated under division (C)(2) of this section, the unified long-term services and support medicaid waiver component) and not have reason to doubt that the individual meets the

financial eligibility requirements of the medicaid-funded component (or, if the medicaid-funded component is terminated under division (C)(2) of this section, the unified long-term services and support medicaid waiver component).

(3) An individual who is eligible for the state-funded component because the individual meets the requirement of division (D)(2)(c) of this section may participate in the component for not more than three months.

(4) The director of aging shall adopt rules in accordance with section 111.15 of the Revised Code to implement the state-funded component. The additional eligibility requirements established in the rules may vary for the different groups of individuals specified in divisions (D)(2)(a), (b), and (c) of this section.

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

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

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

"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.

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

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

(B) ~~The~~ Subject to division (C)(2) of section 173.40 of the Revised Code, the department shall establish a home first component of the PASSPORT program under which eligible individuals may be enrolled in the medicaid-funded component of the PASSPORT program in accordance with this section. An individual is eligible for the PASSPORT program's home first component if ~~all~~ both of the following apply:

(1) The individual ~~is~~ has been determined to be eligible for the medicaid-funded component of the PASSPORT program.

(2) ~~The individual is on the unified waiting list established under section 173.404 of the Revised Code.~~

~~(3)~~ At least one of the following applies:

(a) The individual has been admitted to a nursing facility.

(b) A physician has determined and documented in writing that the

individual has a medical condition that, unless the individual is enrolled in home and community-based services such as the PASSPORT program, will require the individual to be admitted to a nursing facility within thirty days of the physician's determination.

(c) The individual has been hospitalized and a physician has determined and documented in writing that, unless the individual is enrolled in home and community-based services such as the PASSPORT program, the individual is to be transported directly from the hospital to a nursing facility and admitted.

(d) Both of the following apply:

(i) The individual is the subject of a report made under section 5101.61 of the Revised Code regarding abuse, neglect, or exploitation or such a report referred to a county department of job and family services under section 5126.31 of the Revised Code or has made a request to a county department for protective services as defined in section 5101.60 of the Revised Code.

(ii) A county department of job and family services and an area agency on aging have jointly documented in writing that, unless the individual is enrolled in home and community-based services such as the PASSPORT program, the individual should be admitted to a nursing facility.

(C) Each month, each area agency on aging shall identify individuals residing in the area that the agency serves who are eligible for the home first component of the PASSPORT program. When an area agency on aging identifies such an individual, the agency shall notify the long-term care consultation program administrator serving the area in which the individual resides. 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 or begin to reside in a 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 or begin to reside in a nursing facility, the administrator shall so notify the department of aging. On receipt of the notice from the administrator, the department shall approve the individual's enrollment in the medicaid-funded component of the PASSPORT program regardless of the unified waiting list established under section 173.404 of the Revised Code, unless the enrollment would cause the ~~PASSPORT program~~ component to exceed any limit on the number of individuals who may be enrolled in the ~~program~~ component as set by the United States secretary of health and human services in the PASSPORT waiver.

~~(D) 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.~~

Sec. 173.403. ~~"Choices~~ (A) As used in this section:

"Choices program" means the program created under this section.

~~There~~ "Medicaid waiver component" has the same meaning as in section 5111.85 of the Revised Code.

"Unified long-term services and support medicaid waiver component" means the medicaid waiver component authorized by section 5111.864 of the Revised Code.

(B) Subject to division (C) of this section, there is hereby created the choices program. The program shall provide home and community-based services. ~~The choices program shall be operated as a separate medicaid waiver component, as defined in section 5111.85 of the Revised Code, until the United States secretary of health and human services approves the consolidated federal medicaid waiver sought under section 5111.861 of the Revised Code. The program shall be part of the consolidated federal medicaid waiver sought under that section if the United States secretary approves the waiver.~~ The department of aging shall administer the program through a contract entered into with the department of job and family services under section 5111.91 of the Revised Code. Subject to federal approval, the program shall be available statewide.

(C) If the unified long-term services and support medicaid waiver component is created, the departments of aging and job and family services shall work together to determine whether the choices program should continue to operate as a separate medicaid waiver component or be terminated. If the departments determine that the choices program should be terminated, the program shall cease to exist on a date the departments shall specify.

Sec. 173.404. (A) As used in this section:

(1) "Department of aging-administered medicaid waiver component" means each of the following:

(a) The medicaid-funded component of the PASSPORT program created under section 173.40 of the Revised Code;

(b) The choices program created under section 173.403 of the Revised Code;

(c) The medicaid-funded component of the assisted living program created under section 5111.89 of the Revised Code.

(2) "PACE program" means the component of the medicaid program the

department of aging administers pursuant to section 173.50 of the Revised Code.

(B) ~~The~~ If the department of aging determines that there are insufficient funds to enroll all individuals who have applied and been determined eligible for department of aging-administered medicaid waiver components and the PACE program, the department ~~of aging~~ shall establish a unified waiting list for ~~department of aging-administered medicaid waiver~~ the components and ~~the PACE~~ program. Only individuals eligible for a department of aging-administered medicaid waiver component or the PACE program may be placed on the unified waiting list. An individual who may be enrolled in a department of aging-administered medicaid waiver component or the PACE program through a home first component established under section 173.401, 173.501, or 5111.894 of the Revised Code may be so enrolled without being placed on the unified waiting list.

Sec. 173.41. (A) The department of aging shall promote the development of a statewide aging and disabilities resource network through which older adults, adults with disabilities, and their caregivers are provided with both of the following:

(1) Information on any long-term care service options available to the individuals;

(2) Streamlined access to long-term care services, both publicly funded services and services available through private payment.

(B) Area agencies on aging shall establish the network throughout the state. In doing so, the agencies shall collaborate with centers for independent living and other locally funded organizations to establish a cost-effective and consumer-friendly network that builds on existing, local infrastructures of services that support consumers in their communities.

Sec. 173.42. (A) As used in sections 173.42 to 173.434 of the Revised Code:

(1) "Area agency on aging" means a public or private nonprofit entity designated under section 173.011 of the Revised Code to administer programs on behalf of the department of aging.

(2) "Department of aging-administered medicaid waiver component" means each of the following:

(a) The medicaid-funded component of the PASSPORT program created under section 173.40 of the Revised Code;

(b) The choices program created under section 173.403 of the Revised Code;

(c) The medicaid-funded component of the assisted living program created under section 5111.89 of the Revised Code;

(d) Any other medicaid waiver component, as defined in section 5111.85 of the Revised Code, that the department of aging administers pursuant to an interagency agreement with the department of job and family services under section 5111.91 of the Revised Code.

(3) "Home and community-based services covered by medicaid components the department of aging administers" means all of the following:

(a) Medicaid waiver services available to a participant in a department of aging-administered medicaid waiver component;

(b) The following medicaid state plan services available to a participant in a department of aging-administered medicaid waiver component as specified in rules adopted under section 5111.02 of the Revised Code:

(i) Home health services;

(ii) Private duty nursing services;

(iii) Durable medical equipment;

(iv) Services of a clinical nurse specialist;

(v) Services of a certified nurse practitioner.

(c) Services available to a participant of the PACE program.

(4) "Long-term care consultation" or "consultation" means the consultation service made available by the department of aging or a program administrator through the long-term care consultation program established pursuant to this section.

(5) "Medicaid" means the medical assistance program established under Chapter 5111. of the Revised Code.

(6) "Nursing facility" has the same meaning as in section 5111.20 of the Revised Code.

(7) "PACE program" means the component of the medicaid program the department of aging administers pursuant to section 173.50 of the Revised Code.

(8) "PASSPORT administrative agency" means an entity under contract with the department of aging to provide administrative services regarding the PASSPORT program.

(9) "Program administrator" means an area agency on aging or other entity under contract with the department of aging to administer the long-term care consultation program in a geographic region specified in the contract.

(10) "Representative" means a person acting on behalf of an individual specified in division (G) of this section. A representative may be a family member, attorney, hospital social worker, or any other person chosen to act on behalf of the individual.

(B) The department of aging shall develop a long-term care consultation program whereby individuals or their representatives are provided with long-term care consultations and receive through these professional consultations information about options available to meet long-term care needs and information about factors to consider in making long-term care decisions. The long-term care consultations provided under the program may be provided at any appropriate time, as permitted or required under this section and the rules adopted under it, including either prior to or after the individual who is the subject of a consultation has been admitted to a nursing facility or granted assistance in receiving home and community-based services covered by medicaid components the department of aging administers.

(C) The long-term care consultation program shall be administered by the department of aging, except that the department may have the program administered on a regional basis by one or more program administrators. The department and each program administrator shall administer the program in such a manner that all of the following are included:

(1) Coordination and collaboration with respect to all available funding sources for long-term care services;

(2) Assessments of individuals regarding their long-term care service needs;

(3) Assessments of individuals regarding their on-going eligibility for long-term care services;

(4) Procedures for assisting individuals in obtaining access to, and coordination of, health and supportive services, including department of aging-administered medicaid waiver components;

(5) Priorities for using available resources efficiently and effectively.

(D) The program's long-term care consultations shall be provided by individuals certified by the department under section 173.422 of the Revised Code.

(E) The information provided through a long-term care consultation shall be appropriate to the individual's needs and situation and shall address all of the following:

(1) The availability of any long-term care options open to the individual;

(2) Sources and methods of both public and private payment for long-term care services;

(3) Factors to consider when choosing among the available programs, services, and benefits;

(4) Opportunities and methods for maximizing independence and self-reliance, including support services provided by the individual's family,

friends, and community.

(F) An individual's long-term care consultation may include an assessment of the individual's functional capabilities. The consultation may incorporate portions of the determinations required under sections 5111.202, 5119.061, and 5123.021 of the Revised Code and may be provided concurrently with the assessment required under section 5111.204 of the Revised Code.

(G)(1) Unless an exemption specified in division (I) of this section is applicable, each of the following shall be provided with a long-term care consultation:

(a) An individual who applies or indicates an intention to apply for admission to a nursing facility, regardless of the source of payment to be used for the individual's care in a nursing facility;

(b) An individual who requests a long-term care consultation;

(c) An individual identified by the department or a program administrator as being likely to benefit from a long-term care consultation.

(2) In addition to the individuals specified in division (G)(1) of this section, a long-term care consultation may be provided to a nursing facility resident regardless of the source of payment being used for the resident's care in the nursing facility.

(H)(1) Except as provided in division (H)(2) or (3) of this section, a long-term care consultation provided pursuant to division (G) of this section shall be provided as follows:

(a) If the individual for whom the consultation is being provided has applied for medicaid and the consultation is being provided concurrently with the assessment required under section 5111.204 of the Revised Code, the consultation shall be completed in accordance with the applicable time frames specified in that section for providing a level of care determination based on the assessment.

(b) In all other cases, the consultation shall be provided not later than five calendar days after the department or program administrator receives notice of the reason for which the consultation is to be provided pursuant to division (G) of this section.

(2) An individual or the individual's representative may request that a long-term care consultation be provided on a date that is later than the date required under division (H)(1)(a) or (b) of this section.

(3) If a long-term care consultation cannot be completed within the number of days required by division (H)(1) or (2) of this section, the department or program administrator may do any of the following:

(a) In the case of an individual specified in division (G)(1) of this

section, exempt the individual from the consultation pursuant to rules that may be adopted under division (L) of this section;

(b) In the case of an applicant for admission to a nursing facility, provide the consultation after the individual is admitted to the nursing facility;

(c) In the case of a resident of a nursing facility, provide the consultation as soon as practicable.

(I) An individual is not required to be provided a long-term care consultation under division (G)(1) of this section if any of the following apply:

(1) The department or program administrator has attempted to provide the consultation, but the individual or the individual's representative refuses to cooperate;

(2) The individual is to receive care in a nursing facility under a contract for continuing care as defined in section 173.13 of the Revised Code;

(3) The individual has a contractual right to admission to a nursing facility operated as part of a system of continuing care in conjunction with one or more facilities that provide a less intensive level of services, including a residential care facility licensed under Chapter 3721. of the Revised Code, an adult care facility licensed under ~~Chapter 3722.~~ sections 5119.70 to 5119.88 of the Revised Code, or an independent living arrangement;

(4) The individual is to receive continual care in a home for the aged exempt from taxation under section 5701.13 of the Revised Code;

(5) The individual is seeking admission to a facility that is not a nursing facility with a provider agreement under section 5111.22, 5111.671, or 5111.672 of the Revised Code;

(6) The individual is exempted from the long-term care consultation requirement by the department or the program administrator pursuant to rules that may be adopted under division (L) of this section.

(J) As part of the long-term care consultation program, the department or program administrator shall assist an individual or individual's representative in accessing all sources of care and services that are appropriate for the individual and for which the individual is eligible, including all available home and community-based services covered by medicaid components the department of aging administers. The assistance shall include providing for the conduct of assessments or other evaluations and the development of individualized plans of care or services under section 173.424 of the Revised Code.

(K) No nursing facility for which an operator has a provider agreement

under section 5111.22, 5111.671, or 5111.672 of the Revised Code shall admit any individual as a resident, unless the nursing facility has received evidence that a long-term care consultation has been completed for the individual or division (I) of this section is applicable to the individual.

(L) The director of aging may adopt any rules the director considers necessary for the implementation and administration of this section. The rules shall be adopted in accordance with Chapter 119. of the Revised Code and may specify any or all of the following:

(1) Procedures for providing long-term care consultations pursuant to this section;

(2) Information to be provided through long-term care consultations regarding long-term care services that are available;

(3) Criteria and procedures to be used to identify and recommend appropriate service options for an individual receiving a long-term care consultation;

(4) Criteria for exempting individuals from the long-term care consultation requirement;

(5) Circumstances under which it may be appropriate to provide an individual's long-term care consultation after the individual's admission to a nursing facility rather than before admission;

(6) Criteria for identifying nursing facility residents who would benefit from the provision of a long-term care consultation;

(7) A description of the types of information from a nursing facility that is needed under the long-term care consultation program to assist a resident with relocation from the facility;

(8) Standards to prevent conflicts of interest relative to the referrals made by a person who performs a long-term care consultation, including standards that prohibit the person from being employed by a provider of long-term care services;

(9) Procedures for providing notice and an opportunity for a hearing under division (N) of this section.

(M) To assist the department and each program administrator with identifying individuals who are likely to benefit from a long-term care consultation, the department and program administrator may ask to be given access to nursing facility resident assessment data collected through the use of the resident assessment instrument specified in rules adopted under section 5111.02 of the Revised Code for purposes of the medicaid program. Except when prohibited by state or federal law, the department of health, department of job and family services, or nursing facility holding the data shall grant access to the data on receipt of the request from the department

of aging or program administrator.

(N)(1) The director of aging, after providing notice and an opportunity for a hearing, may fine a nursing facility an amount determined by rules the director shall adopt in accordance with Chapter 119. of the Revised Code for any of the following reasons:

(a) The nursing facility admits an individual, without evidence that a long-term care consultation has been provided, as required by this section;

(b) The nursing facility denies a person attempting to provide a long-term care consultation access to the facility or a resident of the facility;

(c) The nursing facility denies the department of aging or program administrator access to the facility or a resident of the facility, as the department or administrator considers necessary to administer the program.

(2) In accordance with section 5111.62 of the Revised Code, all fines collected under division (N)(1) of this section shall be deposited into the state treasury to the credit of the residents protection fund.

Sec. 173.45. As used in this section and in sections 173.46 to 173.49 of the Revised Code:

(A) "Adult care facility" has the same meaning as in section 5119.70 of the Revised Code.

(B) "Community-based long-term care services" has the same meaning as in section 173.14 of the Revised Code.

(C) "Long-term care facility" means a nursing home or residential care facility.

~~(B)~~(D) "Nursing home" and "residential care facility" have the same meanings as in section 3721.01 of the Revised Code.

~~(C)~~(E) "Nursing facility" has the same meaning as in section 5111.20 of the Revised Code.

Sec. 173.46. (A) The department of aging shall develop and publish a guide to long-term care facilities for use by individuals considering long-term care facility admission and their families, friends, and advisors. The guide, which shall be titled the Ohio long-term care consumer guide, may be published in printed form or in electronic form for distribution over the internet. The guide may be developed as a continuation or modification of the guide published by the department prior to ~~the effective date of this section~~ September 29, 2005, under rules adopted under section 173.02 of the Revised Code.

(B) The Ohio long-term care consumer guide shall include information on each long-term care facility in this state. For each facility, the guide shall include the following information, as applicable to the facility:

(1) Information regarding the facility's compliance with state statutes

and rules and federal statutes and regulations;

(2) Information generated by the centers for medicare and medicaid services of the United States department of health and human services from the quality measures developed as part of its nursing home quality initiative;

(3) Results of the customer satisfaction surveys conducted under section 173.47 of the Revised Code;

(4) Any other information the department specifies in rules adopted under section 173.49 of the Revised Code.

(C) The Ohio long-term care consumer guide may include information on adult care facilities and providers of community-based long-term care services. The department may adopt rules under section 173.49 of the Revised Code to specify the information to be included in the guide pursuant to this division.

Sec. 173.47. (A) For purposes of publishing the Ohio long-term care consumer guide, the department of aging shall conduct or provide for the conduct of an annual customer satisfaction survey of each long-term care facility. The results of the surveys may include information obtained from long-term care facility residents, their families, or both.

(B)~~(1) The department may charge fees for the conduct of annual customer satisfaction surveys. The department may contract with any person or government entity to collect the fees on its behalf. All fees collected under this section shall be deposited in accordance with section 173.48 of the Revised Code.~~

~~(2) The fees charged under this section shall not exceed the following amounts:~~

~~(a) Four hundred dollars for the customer satisfaction survey of a long-term care facility that is a nursing home;~~

~~(b) Three hundred dollars for the customer satisfaction survey pertaining to a long-term care facility that is a residential care facility.~~

~~(3) Fees paid by a long-term care facility that is a nursing facility shall be reimbursed through the medicaid program operated under Chapter 5111. of the Revised Code.~~

~~(C)~~ Each long-term care facility shall cooperate in the conduct of its annual customer satisfaction survey.

Sec. 173.48. (A)(1) The department of aging may charge annual fees to long-term care facilities for the publication of the Ohio long-term care consumer guide. The department may contract with any person or government entity to collect the fees on its behalf. All fees collected under this section shall be deposited in accordance with division (B) of this section.

(2) The annual fees charged under this section shall not exceed the following amounts:

(a) Six hundred fifty dollars for each long-term care facility that is a nursing home;

(b) Three hundred dollars for each long-term care facility that is a residential care facility.

(3) Fees paid by a long-term care facility that is a nursing facility shall be reimbursed through the medicaid program operated under Chapter 5111. of the Revised Code.

(B) There is hereby created in the state treasury the long-term care consumer guide fund. Money collected from the fees charged for the ~~conduct of customer satisfaction surveys~~ publication of the Ohio long-term care consumer guide under division (A) of this section ~~173.47 of the Revised Code~~ shall be credited to the fund. The department ~~of aging~~ shall use money in the fund for costs associated with publishing the Ohio long-term care consumer guide, including, but not limited to, costs incurred in conducting or providing for the conduct of customer satisfaction surveys.

Sec. 173.501. (A) As used in this section:

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

"PACE provider" has the same meaning as in 42 U.S.C. 1396u-4(a)(3).

(B) The department of aging shall establish a home first component of the PACE program under which eligible individuals may be enrolled in the PACE program in accordance with this section. An individual is eligible for the PACE program's home first component if ~~all~~ both of the following apply:

(1) The individual ~~is~~ has been determined to be eligible for the PACE program.

(2) ~~The individual is on the unified waiting list established under section 173.404 of the Revised Code.~~

~~(3)~~ At least one of the following applies:

(a) The individual has been admitted to a nursing facility.

(b) A physician has determined and documented in writing that the individual has a medical condition that, unless the individual is enrolled in home and community-based services such as the PACE program, will require the individual to be admitted to a nursing facility within thirty days of the physician's determination.

(c) The individual has been hospitalized and a physician has determined and documented in writing that, unless the individual is enrolled in home and community-based services such as the PACE program, the individual is

to be transported directly from the hospital to a nursing facility and admitted.

(d) Both of the following apply:

(i) The individual is the subject of a report made under section 5101.61 of the Revised Code regarding abuse, neglect, or exploitation or such a report referred to a county department of job and family services under section 5126.31 of the Revised Code or has made a request to a county department for protective services as defined in section 5101.60 of the Revised Code.

(ii) A county department of job and family services and an area agency on aging have jointly documented in writing that, unless the individual is enrolled in home and community-based services such as the PACE program, the individual should be admitted to a nursing facility.

(C) Each month, the department of aging shall identify individuals who are eligible for the home first component of the PACE program. When the department identifies such an individual, the department shall notify the PACE provider serving the area in which the individual resides. The PACE provider shall determine whether the PACE program is appropriate for the individual and whether the individual would rather participate in the PACE program than continue or begin to reside in a nursing facility. If the PACE provider determines that the PACE program is appropriate for the individual and the individual would rather participate in the PACE program than continue or begin to reside in a nursing facility, the PACE provider shall so notify the department of aging. On receipt of the notice from the PACE provider, the department of aging shall approve the individual's enrollment in the PACE program in accordance with priorities established in rules adopted under section 173.50 of the Revised Code.

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

Sec. 183.30. ~~(A) Except as provided in division (C) of this section, no more than five per cent of the total disbursements, encumbrances, and obligations of the southern Ohio agricultural and community development foundation in a fiscal year shall be for administrative expenses of the foundation in the same fiscal year.~~

~~(B) Except as provided in division (C) of this section, no more than five per cent of the total disbursements, encumbrances, and obligations of the biomedical research and technology transfer trust fund in a fiscal year shall be for expenses relating to the administration of the trust fund by the third~~