

**Rule Summary and Fiscal Analysis (Part A)****Department of Job and Family Services**

Agency Name

**Division of Public Assistance**

Division

**Michael Lynch**

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**5101:1-39-24**

Rule Number

**AMENDMENT**

TYPE of rule filing

Rule Title/Tag Line

**Medicaid: determining patient liability.****RULE SUMMARY**

1. Is the rule being filed consistent with the requirements of the RC 119.032 review? **Yes**

2. Are you proposing this rule as a result of recent legislation? **No**

3. Statute prescribing the procedure in accordance with the agency is required to adopt the rule: **111.15**

4. Statute(s) authorizing agency to adopt the rule: **5111.01, 5111.011**

5. Statute(s) the rule, as filed, amplifies or implements: **5111.01, 5111.011**

6. State the reason(s) for proposing (i.e., why are you filing,) this rule:

To clarify policy related to treatment of veterans' Aid and Attendance pension income when calculating patient liability for Medicaid, and for five-year rule review.

7. If the rule is an AMENDMENT, then summarize the changes and the content of the proposed rule; If the rule type is RESCISSION, NEW or NO CHANGE,

then summarize the content of the rule:

This rule sets forth the policies for determining Medicaid patient liability. Changes to the rule specify that the first \$90 of Aid and Attendance pension income is to be disregarded when calculating patient liability for certain veterans or their widows receiving home- and community-based waiver services. Prior policy was to count the entire amount. Other changes were made for clarity, consistency with other rules, and to reduce duplicative language.

8. If the rule incorporates a text or other material by reference and the agency claims the incorporation by reference is exempt from compliance with sections 121.71 to 121.74 of the Revised Code because the text or other material is **generally available** to persons who reasonably can be expected to be affected by the rule, provide an explanation of how the text or other material is generally available to those persons:

This rule incorporates one or more references to another rule or rules of the Ohio Administrative Code. This question is not applicable to any incorporation by reference to another OAC rule because such reference is exempt from compliance with ORC 121.71 to 121.74 pursuant to ORC 121.76(A)(3).

This rule incorporates one or more dated references to the U.S. Code. This question is not applicable to any dated incorporation by reference to the U.S. Code because such reference is exempt from compliance with ORC 121.71 to 121.74 in accordance with ORC 121.75(A).

This rule incorporates one or more dated references to a federal act or acts. This question is not applicable to any dated incorporation by reference to a federal act because such reference is exempt from compliance with ORC 121.71 to 121.74 in accordance with ORC 121.75(C).

9. If the rule incorporates a text or other material by reference, and it was **infeasible** for the agency to file the text or other material electronically, provide an explanation of why filing the text or other material electronically was infeasible:

Not Applicable

10. If the rule is being **rescinded** and incorporates a text or other material by reference, and it was **infeasible** for the agency to file the text or other material, provide an explanation of why filing the text or other material was infeasible:

*Not Applicable.*

11. If **revising** or **refiling** this rule, identify changes made from the previously filed version of this rule; if none, please state so. If applicable, indicate each specific paragraph of the rule that has been modified:

Added definition for "plan of care" at paragraph (B)(22). Rule was TBR'd and is now refiled in order to add a BIA.

12. 119.032 Rule Review Date: **4/1/2013**

(If the rule is not exempt and you answered NO to question No. 1, provide the scheduled review date. If you answered YES to No. 1, the review date for this rule is the filing date.)

NOTE: If the rule is not exempt at the time of final filing, two dates are required: the current review date plus a date not to exceed 5 years from the effective date for Amended rules or a date not to exceed 5 years from the review date for No Change rules.

### **FISCAL ANALYSIS**

13. Estimate the total amount by which *this proposed rule* would **increase/decrease** either **revenues /expenditures** for the agency during the current biennium (in dollars): Explain the net impact of the proposed changes to the budget of your agency/department.

This will increase expenditures.

\$500,000

The proposed changes to this rule would result in an increase in expenditures of less than \$500,000 per year.

14. Identify the appropriation (by line item etc.) that authorizes each expenditure necessitated by the proposed rule:

600525

15. Provide a summary of the estimated cost of compliance with the rule to all directly affected persons. When appropriate, please include the source for your information/estimated costs, e.g. industry, CFR, internal/agency:

No new costs.

16. Does this rule have a fiscal effect on school districts, counties, townships, or municipal corporations? **No**

17. Does this rule deal with environmental protection or contain a component dealing with environmental protection as defined in R. C. 121.39? **No**

**S.B. 2 (129th General Assembly) Questions**

18. Has this rule been filed with the Common Sense Initiative Office pursuant to R.C. 121.82? **Yes**

19. Specific to this rule, answer the following:

A.) Does this rule require a license, permit, or any other prior authorization to engage in or operate a line of business? **No**

B.) Does this rule impose a criminal penalty, a civil penalty, or another sanction, or create a cause of action, for failure to comply with its terms? **Yes**

Providers may have audit findings or lack of payment penalties if compliance with the rule is not met.

C.) Does this rule require specific expenditures or the report of information as a condition of compliance? **Yes**

Paragraph (E) requires that nursing facilities pay back patient liability overpayments; paragraphs (F) and (G) require that HCBS waiver agencies and PACE sites, respectively, must notify the individual as to whom he or she must make the patient liability payment.