

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

Agency Name

**Division of Public Assistance**

Division

**Mike Lynch**

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**5101:1-39-24**

Rule Number

**NEW**

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? **No**

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**

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

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

This rule is rescinded and made new to incorporate federal regulatory changes under the Deficit Reduction Act of 2005, Section 6013, relating to medical assistance programs and to satisfy the 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 requires the administrative agency to use an income-first approach before

allocating additional resources to the community spouse. All available income of the institutionalized spouse must be considered before a new community spouse resource allowance can be computed.

Significant changes to this rule include:

1. A revised definition for Minimum Monthly Maintenance Needs Allowance (MMMNA);
2. A revision to the Monthly Income Allowance (MIA) calculation;
3. A revision of the use of the veteran's pension (up to ninety dollars) as a Personal Needs Allowance (PNA) for an institutionalized veteran; and
4. Excluding the date of death or date of discharge from the prorated payment calculation.
5. A clarification of family member for the purpose of determining a family allowance and a family maintenance needs allowance.

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 121.70 to 121.74 pursuant to ORC 121.76(A)(3).

This rule incorporates one or more references to federal law. This question is not applicable to those references in this rule because such references are exempt from compliance with ORC 121.71 to 121.74 pursuant to ORC 121.76(B)(2).

This rule incorporates one or more references to the Ohio Revised Code. This question is not applicable to any incorporation by reference to the Ohio Revised Code because such reference is exempt from compliance with ORC 121.71 to 121.74 pursuant to ORC 121.76(A)(1).

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:

1. Paragraph (B)(19) language was added to clarify that the Minimum Monthly Maintenance Needs Allowance (MMMNA) cap could be exceeded through the state hearing process.
2. Paragraph (B)(28) language was added to clarify that the standard utility allowance was used in lieu of the actual amount of utility costs.
3. Paragraph (C)(2)(b)(v) regarding the treatment of aid and attendance payments in the post eligibility process was deleted. Aid and attendance and housebound allowances are not considered income in the initial Medicaid eligibility determination; however, these are counted in the post-eligibility process.
4. Paragraph (C)(2)(b)(xiv) language was added to clarify the treatment of income for an institutionalized child.
5. Paragraph (C)(5) language was added to instruct the administrative agency to notify the individual with any changes in the patient liability.

12. 119.032 Rule Review Date:

(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 decrease expenditures.

\$1,335,993.86

This rule in conjunction with rule 5101:1-39-05 (included in this filing) has an estimated cost based on projections provided by the National Conference of State Legislatures (NCSL): Deficit Reduction Act of 2005 Summary of Medicaid, Medicare, Health Provisions (updated February 3, 2006), and information obtained from the Decision Support System (July 1, 2004 through June 30, 2006). Ohio's long-term care population (111,808) is the number of consumers receiving long-term care services from nursing facilities, a Home and Community Based Services (HCBS) waiver, or the Program for All-Inclusive Care for the Elderly (PACE). The federal long-term care Medicaid population (2,712,591) was divided by Ohio's long-term care Medicaid population in order to determine the portion of the estimated federal fiscal impact that is specific to Ohio. This portion of federal dollars was then reduced to reflect Ohio's share of Medicaid long-term care costs (40.12 %).

The estimated cost also includes an estimated biennium savings of \$1,076,400. This additional savings is a result of a correction in the patient liability budget. The current rule, 5101:1-39-24 Medicaid: patient liability, effective July 1, 2005, instructs the administrative agency to exclude \$90.00 from the individuals income if the individual is a veteran as described in this rule. Additionally, the rule instructs the administrative agency to allow a personal needs allowance of \$90.00. The result is \$180.00 not used in the patient liability budget. The new rule will limit the personal needs allowance to \$40.00 (except for individuals with earned income). This is a savings of \$50.00 per veteran. The \$50.00 was then multiplied by the estimated number of veterans effected by this rule (data obtained from the Decision Support System, February 2006). The dollar amount of \$1,435,200 was then multiplied by .75 (remaining time in biennium).

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

Not applicable.

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:

This new rule will require institutionalized individuals to transfer all available income to the community spouse before a new community spouse resource allowance can be computed. This may cause the institutionalized spouse to remain

over the Medicaid resource limit of fifteen thousand dollars.

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**