

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

Agency Name

**Division of Medical Assistance**

Division

**Nancy Van Kirk**

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**5101:3-10-03**

Rule Number

**AMENDMENT**

TYPE of rule filing

Rule Title/Tag Line

**"Medicaid Supply List".****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: **119.03**

4. Statute(s) authorizing agency to adopt the rule: **5111.02**

5. Statute(s) the rule, as filed, amplifies or implements: **5111.01, 5111.02, 5111.021**

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

This rule is being proposed in order to update rule terminology located in the rule body and modify the existing Appendix A of this rule. A new Appendix B is being created for this rule that will designate specific medical equipment and supplies that upon notification to providers and consumers by the department will only be acquired by the department utilizing a competitive bidding procurement program described as value purchasing. This program is being initiated by the department in order to reduce annual expenditures for incontinence products currently supplied to Medicaid consumers.

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 durable medical equipment and supplies covered by the Medicaid program. Changes include the incorporation of a new Appendix B and new rule language which provides instruction to providers regarding the identification of DME equipment and supplies currently listed on the department's medical supply list that are subject to a value purchasing contract and therefore not directly reimbursable to any provider not pre-approved by the department to supply the equipment or supplies in question. In the case where an existing volume purchasing contract for the designated supplies is not in place, any willing provider with a current Medicaid provider agreement may dispense the designated supplies listed in Appendix B.

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

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 Code of Federal Regulations (CFR). This question is not applicable to any dated incorporation by reference to the CFR because such reference is exempt from compliance with RC 121.71 to 121.74 in accordance with RC 121.75(D).

This rule incorporates one or more dated references to an ODJFS form or forms. Each cited ODJFS form is dated and is generally available to persons affected by this rule via the "Info Center" link on the ODJFS web site (<http://jfs.ohio.gov/>) in accordance with ORC 121.75(E).

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:

*Not Applicable.*

12. 119.032 Rule Review Date: **12/1/2012**

(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.

\$3,000,000

The filing of this rule and 5101:3-10-21 will result in an agency decrease in expenditures in the supply of incontinence products to Medicaid consumers on an annual basis when the program is initiated.

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:

As a result of this rule filing, the department estimates that this rule will result in no direct costs of compliance for directly affected stakeholders. Any indirect financial impact to providers or any other stakeholder resulting from the initiation of a value purchasing procurement program established by the department would be provider specific and dependent on the nature of the durable medical equipment (DME) contract being proposed by the department and the provider's unique business model. Suppliers of incontinence products who are not selected as contractors through the value purchasing program may see a decrease in revenues because they will no longer receive payment from Medicaid for these items. It is impossible to estimate how much revenue non-contracted providers will lose, as this will depend on how much revenue the provider previously received from Medicaid for incontinence products. Suppliers of incontinence products who are selected as contractors through the value purchasing program will see an increase in revenues as a result of the proposed value purchasing program. The department does not anticipate a cost of compliance to any consumer as a result of this rule filing.

16. Does this rule have a fiscal effect on school districts, counties, townships, or municipal corporations? **Yes**

You must complete Part B of the Rule Summary and Fiscal Analysis in order to comply with Am. Sub. S.B. 33 of the 120th General Assembly.

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

**Rule Summary and Fiscal Analysis (Part B)**

1. Does the Proposed rule have a fiscal effect on any of the following?

(a) School Districts	(b) Counties	(c) Townships	(d) Municipal Corporations
No	Yes	No	Yes

2. Please provide an estimate in dollars of the cost of compliance with the proposed rule for school districts, counties, townships, or municipal corporations. If you are unable to provide an estimate in dollars, please provide a written explanation of why it is not possible to provide such an estimate.

As a result of this rule filing, the department estimates that this rule will result in no direct costs of compliance for directly affected stakeholders to the extent that government agencies are providers. Any indirect financial impact to providers or any other stakeholder resulting from the initiation of a value purchasing procurement program established by the department for incontinence supplies would be provider specific and dependent on the nature of the durable medical equipment (DME) contract being proposed by the department and the provider's unique business model in regards to their unique and specific vested interest in dispensing Medicaid equipment and supplies, thus these costs cannot be quantified by the department.

3. If the proposed rule is the result of a federal requirement, does the proposed rule exceed the scope and intent of the federal requirement? **No**

4. If the proposed rule exceeds the minimum necessary federal requirement, please provide an estimate of, and justification for, the excess costs that exceed the cost of the federal requirement. In particular, please provide an estimate of the excess costs that exceed the cost of the federal requirement for (a) school districts, (b) counties, (c) townships, and (d) municipal corporations.

*Not Applicable.*

5. Please provide a comprehensive cost estimate for the proposed rule that includes the procedure and method used for calculating the cost of compliance. This comprehensive cost estimate should identify all of the major cost categories including, but not limited to, (a) personnel costs, (b) new equipment or other capital costs, (c) operating costs, and (d) any

indirect central service costs.

As a result of this rule filing, the department estimates that this rule will result in no direct costs of compliance for directly affected stakeholders. Any indirect financial impact to providers or any other entity resulting from the initiation of a value purchasing procurement program established by the department would be provider specific and dependent on the nature of the durable medical equipment (DME) contract being proposed by the department and the provider's unique business model in regards to their unique and specific vested interest in dispensing Medicaid equipment and supplies, thus these costs cannot be quantified by the department.

(a) Personnel Costs

Not quantifiable as these costs are provider specific and proprietary.

(b) New Equipment or Other Capital Costs

Not quantifiable as these costs are provider specific and proprietary.

(c) Operating Costs

Not quantifiable as these costs are provider specific and proprietary.

(d) Any Indirect Central Service Costs

Not quantifiable as these costs are provider specific and proprietary.

(e) Other Costs

Not quantifiable as these costs are provider specific and proprietary.

6. Please provide a written explanation of the agency's and the local government's ability to pay for the new requirements imposed by the proposed rule.

Not applicable

7. Please provide a statement on the proposed rule's impact on economic development.

Suppliers of incontinence products who are not selected as contractors through the

value purchasing program will see a decrease in revenues, and this could cause such suppliers to restructure their current business model in a manner that could adversely affect the local economies where the suppliers operate. However, the successful bidder in the value purchasing program could experience a major increase in business that could lead to increased economic development in the local economy where this supplier is located.

Furthermore, the value purchasing program is viewed as an integral part of the department's efforts to keep Medicaid costs down in a manner that will preserve the viability of the Medicaid program and eliminate the need for an increase in taxes. Thus the operation of the value purchasing program will assist in avoiding the negative effect on economic development that would result from an increase in taxes.