

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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5101:3-10-05

Rule Number

AMENDMENT

TYPE of rule filing

Rule Title/Tag Line

Reimbursement for covered services.**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**

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

This rule is being updated to reflect changes in coverage criteria for the fee for service durable medical equipment (DME) program.

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 contains the reimbursement provisions for the Medicaid DME program. The proposed changes in this rule would include the addition of criteria for a

recognized provider to prescribe and supply durable medical equipment (DME) for Medicaid consumers such as the requirement of a face-to-face medical examination prior to any initial prescription of DME. In addition, rule language is being updated to reflect changes in criteria for rental items as well as back up equipment for mechanical ventilators. The capped rental (CR) option for DME equipment is being eliminated from the program. Criteria is also being established which provides instructions to providers in order to verify delivery of DME to eligible consumers.

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 OAC 121.76 (A)(3).

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).

This rule incorporates one or more references to the Code of Federal Regulations (CFR). 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).

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:

N/A

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:

This rule was revised per stakeholder request in order to provide more specific reimbursement criteria in paragraph (F) of this rule. Most of the text of paragraph (F) was stricken and new paragraphs (F)(1) to (F)(8) were inserted. Paragraph (H) of this rule was modified in order to require "equipment specific" warranty information to be submitted by the provider for any reimbursement request for DME repairs.

This rule is being refiled to modify paragraph (A)(2) of this rule due to stakeholder request to include the following language "Except as provided in this paragraph, prescriptions for durable medical equipment (DME) and medical supplies must originate as a result of a face to face examination between the prescriber and the consumer. A separate examination for each subsequent DME item prescribed is not necessary if:

(a) The prescriber has reviewed the medical record generated from a face to face examination that was conducted within the previous twelve months by the prescriber, and the DME item or items are related to the diagnosis that were established in that face to face examination; or

(b) The prescription is written based on the judgment of a prescriber who has reviewed the consumer's medical records from a face to face examination conducted within the previous 12 months by a different prescriber, and the item or items are related to the diagnoses that were established in that face to face examination.

All DME and medical supply prescriptions for a long term supply of disposable items (i.e., diabetic test strips, incontinence garments or wound supplies), can be renewed no sooner than ninety days prior to the expiration of the current prescription. DME or medical supply prescriptions are only valid for a maximum of one year.

Question 13 of the Rule Summary and Fiscal Analysis was updated to explain the cost offset of this rule to the department, and Question 15 was updated to explain the potential for providers to experience a cost of compliance depending on their current business practices.

12. 119.032 Rule Review Date: **7/1/2009**

(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 have no impact on revenues or expenditures.

\$0.00

It is expected that this filing will have no direct fiscal impact for the agency during the current biennium (in dollars) due to the fact that any cost increase due to additional prescriber examinations or transportation will be offset by more appropriate medical review and authorization of DME services.

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:

Depending on the providers current practice they may experience a cost of compliance, this cost will vary from provider to provider, however, at this time the department cannot quantify this amount.

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**