

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

Agency Name

**Division of Medical Assistance**

Division

**Nancy Van Kirk**

Contact

**30 E Broad St 31st Floor ODJFS Office of Legal  
Services Columbus OH 43215-3414**

Agency Mailing Address (Plus Zip)

**466-4605**

Phone

**752-8298**

Fax

**5101:3-12-01**

Rule Number

**NEW**

TYPE of rule filing

Rule Title/Tag Line

**Home health services: provision requirements, coverage and  
service specification.****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, 5111.85**

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

This rule is being proposed for adoption to clarify and simplify the home health program which is a federally required state Medicaid service. It replaces part of former rules 5101:3-12-01, 5101:3-12-02, 5101:3-12-03, 5101:3-12-04, 5101:3-12-05, and 5101:3-12-06.

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 home health services definitions, provision of services requirements, and services covered with specifications, including consumer and Medicare Certified Home Health Agency requirements.

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 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 ORC 121.71 to 121.74 in accordance with ORC 121.75(D).

This rule incorporates one or more dated references to and ODJFS form. Each cited ODJFS form is dated and is generally available to persons affected by this rule via the "Infor 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:

This rule is being revised to add RC 5111.85 to question 5 of the Rule Summary and Fiscal Analysis.

This rule body is being revised to add in (C) 5th line: ... "or a hospital discharge planner or a registered nurse acting under the orders of the treating physician"...

Omitted wording in paragraph (C) line 4 omitted ..."in accordance with rule

5101:3-2-03 of the Administrative Code"...

added paragraph (C) (1) "Consumer has a discharge date from an inpatient hospital stay of three or more covered days. For the purposes of this rule, a covered inpatient hospital stay is defined in rule 5101:3-2-03 of the Administrative Code and is considered one hospital stay when a consumer is transferred from one hospital to another hospital, either within the same building or to another location. The sixty days will begin once the consumer is discharged to the consumer's place of residence or to a nursing facility as defined in paragraph (D) (3) of this rule, from the last inpatient stay whether or not the last inpatient stay was an inpatient hospital or inpatient rehabilitation unit of a hospital."

Changed wording order(C) (2) (b) to now say in line 2: ..."defined in rule 5101:3-3-05 of the Administrative Code for skilled level of care (SLOC), or defined in rule 5101:3-3-06 of the Administrative Code for intermediate level of care, or defined in rule 5101:3-3-07 of the Administrative Code for ICF/MR level of care."

Omitted (D)..custodial care..., (D) (4) (c) definition of custodial care.

Changed wording in (F) (1) line 5 to say: ..."performed by a licensed nurse."

Changed wording in (F) (1) (a) to say: ..."as defined in Chapter 4723. of the Revised Code and rules adopted there under."

Omitted (F) (1) (f) line 2: ... or epidural is omitted.

Changed wording (F) (2) (d) (iii)to say: "Chapter 4723-13 of the Administrative Code, and"...

Changed wording (G) (2) to say: "Requires more than, as ordered by the treating physician:"

Changed letter reference in (G) (2) (a) line 3 to say: paragraph "(B)" of this rule;

Changed word in (G) (3) (b) line 1 to now say: ..."evaluated"...

Omitted word and comma in (G) (3) (b) line 3: omitted , which

Changed word in (G) (4) line 2: ..."visits" at least once per week...

This rule is being refiled a second time for more rule body corrections and one correction in question 11 of the Rule Summary and Fiscal Analysis.

Changed the line # in first correction in question 11 to say: 5th line

Omitted words in (D) (4) line 3: custodial care

Omitted a comma and added () to (F) (2) (d) (ii) second line after enema.

Omitted a comma in (F) (2) (d) (iv) line 1 after exercise.

Omitted a comma in (F) (3) line 2 after services.

Omitted a comma in (F) (3) (c) (v) line 3 after motivational.

Capitalized a word in (G) (1) line 2: Administrative.

Added a number in (G) (2) (a) line 2: (fifty six units)

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 increase expenditures.

Unknown at this time

Due to CMS written guidelines to Medicaid single state agencies the home health services in this rule must now be provided to waiver consumers prior to waiver services if the services have the same scope. Costs cannot be determined at this time since it is unknown for each consumer which services would be considered on a case-by-case basis to have the same scope. As more services are provided through the home health services a cost shift will occur from the Ohio Department of Aging and the Department of MR/DD to the Ohio Department of Job and Family Services. Thus causing an increase in the ODJFS expenditures.

All services in this rule were previously accessed through core services, Core benefit package or Core Plus benefit package. Costs cannot be projected at this time because we can not estimate the number of individuals that will need increased services who meet the requirements outlined in paragraphs C and G of this rule.

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:

The requirements of this rule place additional administrative responsibilities on Hospitals, Physicians and Medicare Certified Home Health Agencies for the additional Form JFS 07137 to be signed by the physician and kept in the consumer's home health medical records. This may cause a minor increase of the Hospitals, physician's and Medicare Certified Home Health Agencies in administrative expenditures which cannot be quantified at this time.

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**