

**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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**5101:3-12-02.3**

Rule Number

**NEW**

TYPE of rule filing

Rule Title/Tag Line

**Private duty nursing: procedures for service authorization.****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, 5111.85**

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

This rule is being proposed for adoption in order for the Ohio Department of Job and Family Services (ODJFS) to implement the provisions of rule 5101:3-12-02 of the Administrative Code that became effective September 1, 2006 via emergency rule.

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 procedures that must be followed by Medicaid providers and case managers when requesting prior authorization for PDN services for consumers who are not enrolled on a home and community-based services waiver, consumers who are enrolled on an ODMR/DD- or ODA- administered waiver, and consumers who are enrolled on an ODJFS-administered waiver. It also sets forth the procedures to be followed when PDN services are required on an emergency basis.

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 RC 121.71 to 121.74 pursuant to RC 121.76(A)(3).

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 RC 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 reference to authorized representatives in subparagraphs(B)(2)(a)(ii), (B)(2)(b), (C)(1), (C)(2)(a)(ii), (C)(2)(b), (C)(2)(c)(i), (D)(2)(c), (D)(3) and (D)(4).

This rule is also being revised to add a new subparagraph (B)(2)(c) (ii) that states that ODJFS "may conduct a review of the PDN authorization request that has been proposed for denial." In order to make this change, the word "shall" has been deleted from the end of paragraph (B)(2)(c), and it was added to subparagraphs (B)(2)(c)(i) and (B)(2)(c)(iii).

This rule is also being revised to add language to subparagraph (C)(1) that states, "The case manager shall assist the consumer and/or authorized representative in securing a potential PDN service provider." It also creates a new (D)(1) that also states this language.

This rule is also being revised to add the word "the" between "conducting" and "face-to-face" in the first sentence in subparagraph (C)(2)(a)(i).

#### 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 have no impact on revenues or expenditures.

\$0.00

The procedures set forth in this rule place additional administrative responsibilities on ODJFS, the agency that will be conducting assessments for private duty nursing service authorization. The administrative cost of these assessments cannot be quantified at this time.

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 procedures set forth in this rule place additional administrative responsibilities on providers of private duty nursing services, as well as case managers serving consumers enrolled in ODMR/DD- and ODA-administered home and community-based services waivers. As a result, this may cause a minor increase in the administrative expenses of non-agency nurses and home health agencies providing PDN services, as well as county boards of mental retardation and developmental disabilities and PASSPORT administrative agencies 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**