

**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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**5101:3-12-06**

Rule Number

**AMENDMENT**

TYPE of rule filing

Rule Title/Tag Line

**Reimbursement: private duty nursing 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? **Yes**

Bill Number: **HB1**General Assembly: **128**Sponsor: **Sykes**

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, Section 309.30.75 of Am. Sub. H.B. 1, 128th G.A**

5. Statute(s) the rule, as filed, amplifies or implements: **5111.01, 5111.02, 5111.85, Section 309.30.75 of Am. Sub. H.B. 1, 128th G.A**

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

This rule is being amended to attain cost savings prescribed in section 309.30.75 of Amended Substitute House Bill 1, which requires the Department to reduce the reimbursement rates for specified Medicaid providers to result in an amount that is at least three per cent lower in the aggregate than the rates in effect on December 31, 2009.

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:

Rule 5101:3-12-06, entitled Reimbursement: Private Duty Nursing Services, sets forth maximum reimbursement amounts for private duty nurses. The maximum reimbursement amount for the single HCPCS code billed by private duty nurses has been reduced by three percent, resulting in annual savings of approximately \$4,231,876 and a biennial savings of approximately \$6,347,814.

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 to RC 121.76 (A) (3).

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: **9/1/2011**

(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.

\$6,347,814.00

The department estimates that this rule filing will result in a decrease in expenditures for the agency during the current biennium of \$6,347,814.00.

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

Line item 600525.

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 the rule amendments do not impose any new requirements, there should not be a new cost of compliance to providers. Although there is no new cost of compliance, providers will be subject to a reduction in reimbursement when they bill for the affected services. The Department cannot provide an estimate of the impact in reimbursement, because the amount of the reduction will vary from provider to provider, depending on their business model and the frequency at which they bill the reduced codes.

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	Yes	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 the rule amendments do not impose any new requirements, there should not be a new cost of compliance to providers. Although there is no new cost of compliance, to the extent that providers of these services are counties, townships or municipal corporations that are also Medicare certified home health agencies (MCRHHAs) or an otherwise accredited agencies, they will be subject to a reduction in reimbursement when they bill for the affected services. The Department cannot provide an estimate of the impact in reimbursement because the amount of the reduction will vary from provider to provider, depending on their business model and the frequency at which they bill the reduced codes.

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.

This rule change is being proposed in response to provisions in Ohio Amended Substitute House Bill 1 that require reduced expenditures to certain providers by an aggregate amount of three percent for dates of service on or after January 1, 2010.

(a) Personnel Costs

As the rule amendments do not impose any new requirements, there should not be an increase or decrease in personnel costs to providers.

(b) New Equipment or Other Capital Costs

As the rule amendments do not impose any new requirements, there should not be an increase or decrease in equipment/capital costs to providers.

(c) Operating Costs

As the rule amendments do not impose any new requirements, there should not be an increase or decrease in operating costs to providers.

(d) Any Indirect Central Service Costs

As the rule amendments do not impose any new requirements, there should not be an increase or decrease in indirect costs to providers.

(e) Other Costs

As the rule amendments do not impose any new requirements, there should not be an increase or decrease in other costs to providers.

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.

As the rule amendments do not impose any new requirements, they should not require a local agency or government to incur additional costs.

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

These rule amendments reduce reimbursement to various providers of services and thus could result in a reduction in Medicaid reimbursement received in a county.

The amount of the reduction will vary by county. Therefore, the Department cannot estimate the effect of these proposed rule amendments on economic development.