

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

Agency Name

Division of Medical Assistance

Division

Mike Lynch

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5101:3-3-15.2

Rule Number

NEW

TYPE of rule filing

Rule Title/Tag Line

Resident review (RR) requirements for individuals residing in nursing facilities (NFs).**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, 5111.202, 5101.02**

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

This new rule is being proposed to replace an existing rule of the same number and title, which was rescinded as a result of the updates clarifying policies surrounding resident review requirements.

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:

The rule sets forth the resident review requirements which must be met in order to comply with Section 1919 (e)(7) of the Social Security Act which prohibits nursing facilities from retaining individuals with serious mental illness, mental retardation, or developmental disabilities unless a thorough evaluation indicates that such placement is appropriate and adequate services are provided. The new rule was reorganized and simplified to make it easier for a reader to understand the resident review requirements. Additionally, the rule includes a new provision allowing the approval of resident reviews for pre-determined periods of time allowing for greater flexibility to meet the needs of residents with mental illness and/or mental retardation/developmental disabilities.

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 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).

This rule incorporates one or more references to another rule or rules of the Ohio Revised Code. This question is not applicable to incorporation by reference to the Ohio Revised Code because such reference is exempt from compliance with RC 121.71 to 121.74 in accordance with 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 incorporation by reference to another OAC rule because such reference is exempt from compliance with RC 121.71 to 121.74 in accordance with ORC 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:

8/21/09

This rule is being revised to remove the statute authorizing and amplifying authority of Ohio Revised Code (ORC) 5101.75, 5101.752, 5101.202, 119.032 and to add ORC 5111.202 to the statute amplifying authority.

9/2/09

This rule is being refiled to add clarifying language and update the statute referenced in the following paragraphs:

(C)(9)

(D)(3)(d)

(F)(2)

(F)(3).

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.

00.00

There is a minimal cost associated with the review of requests for extensions of a resident review approval containing a pre-determined approval period. Given that this type of approval did not exist prior to this proposed rule, an estimate cannot be determined at this time. All remaining changes to the resident review rule remain consistent with current operations.

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

ALI 600-655

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 new rule contains the same expectations as the current rule in effect. Nursing facilities and local administrators continue to be responsible for the requirements of resident reviews consistent with section 1919e(7) of the Social Security Act. The new rule clarifies existing responsibilities and provides greater flexibility to nursing facilities and local administrators.

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**