

**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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**5101:3-3-16.4**

Rule Number

**AMENDMENT**

TYPE of rule filing

Rule Title/Tag Line

**Coverage of bed-hold days for medically necessary and other limited absences from nursing facilities (NFs).****RULE SUMMARY**

1. Is the rule being filed consistent with the requirements of the RC 119.032 review? **Yes**

2. Are you proposing this rule as a result of recent legislation? **Yes**

Bill Number: **HB153**General Assembly: **129**Sponsor: **Amstutz**

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: **3721.16, 5111.331**

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

Five year review.

To implement provisions of RC 5111.331 adopted under Am. Sub. H.B. 153 of the 129th G.A. relating to the administration of the Medicaid 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 sets forth the bed-hold day provisions for nursing facilities.

Changes are being made to this rule so that during calendar year 2012 and thereafter, reimbursement of nursing facility (NF) bed-hold days will be fifty per cent of the NF provider's per diem rate if the facility had an occupancy rate in the preceding calendar year exceeding ninety-five per cent. The reimbursement will be eighteen per cent of the NF provider's per diem rate if the facility had an occupancy rate in the preceding calendar year of ninety-five per cent or less.

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 the Ohio Revised Code. This question is not applicable to any incorporation by reference to the ORC because such reference is exempt from compliance with ORC 121.71 to 121.74 pursuant to ORC 121.76(A)(1).

This rule incorporates one or more references to 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 ORC 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).

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: **12/15/2011**

(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.

\$16,243,342

The changes in this rule will decrease expenditures for the agency by reducing Medicaid reimbursement to some providers of nursing facility services. During calendar year 2012 and thereafter, reimbursement for nursing facility (NF) bed-hold days will be fifty percent of the NF provider's per diem rate if the facility had an occupancy rate in the preceding year exceeding ninety-five per cent.

Reimbursement will be eighteen per cent of the NF provider's per diem rate if the facility had an occupancy rate in the preceding calendar year of ninety-five per cent or less. Prior to fiscal year 2012 reimbursement was fifty percent of the NF provider's per diem rate regardless of the NF's occupancy rate.

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:

The changes in this rule will reduce the amount of Medicaid reimbursement providers of nursing facility services receive when they bill for bed-hold days. The Department cannot provide an estimate of the impact on each provider's reimbursement, because it will vary from provider to provider depending on their rate of occupancy and the frequency at which they bill for bed-hold days.

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	No	No

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.

The changes in this rule will reduce the amount of Medicaid reimbursement county operated NFs receive when they bill for bed-hold days. The Department cannot provide an estimate of the impact on each provider's reimbursement, because it will vary from provider to provider depending on their rate of occupancy and the frequency at which they bill for bed-hold days.

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.

The changes in this rule will reduce the amount of Medicaid reimbursement county operated NFs receive when they bill for bed-hold days. The Department cannot provide an estimate of the impact on each provider's reimbursement, because it will vary from provider to provider depending on their rate of occupancy and the

frequency at which they bill for bed-hold days.

**(a) Personnel Costs**

The changes in this rule will reduce the amount of Medicaid reimbursement county operated NFs receive when they bill for bed-hold days. The Department cannot provide an estimate of the impact on each provider's personnel costs, because it will vary from provider to provider depending on their rate of occupancy and the frequency at which they bill for bed-hold days.

**(b) New Equipment or Other Capital Costs**

The changes in this rule will reduce the amount of Medicaid reimbursement county operated NFs receive when they bill for bed-hold days. The Department cannot provide an estimate of the impact on each provider's new equipment or other capital costs, because it will vary from provider to provider depending on their rate of occupancy and the frequency at which they bill for bed-hold days.

**(c) Operating Costs**

The changes in this rule will reduce the amount of Medicaid reimbursement county operated NFs receive when they bill for bed-hold days. The Department cannot provide an estimate of the impact on each provider's operating costs, because it will vary from provider to provider depending on their rate of occupancy and the frequency at which they bill for bed-hold days.

**(d) Any Indirect Central Service Costs**

The changes in this rule will reduce the amount of Medicaid reimbursement county operated NFs receive when they bill for bed-hold days. The Department cannot provide an estimate of the impact on each provider's indirect central service costs, because it will vary from provider to provider depending on their rate of occupancy and the frequency at which they bill for bed-hold days.

**(e) Other Costs**

The changes in this rule will reduce the amount of Medicaid reimbursement county operated NFs receive when they bill for bed-hold days. The

Department cannot provide an estimate of the impact on each provider's other costs, because it will vary from provider to provider depending on their rate of occupancy and the frequency at which they bill for bed-hold days.

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.

The Department is unable to provide an explanation of the ability of county operated nursing facilities to pay for the costs incurred as a result of the changes in this rule, because the Department does not have this level of detailed information about the finances of the county operated nursing facilities.

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

The Department is unable to provide a statement on the proposed rule's impact on economic development because the Department cannot estimate the amount of financial impact on county operated nursing facilities, and cannot explain how that unknown impact will affect economic development.