

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? **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: **5111.331**

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

To clarify policy relating to the administration of the Medicaid program, specifically regarding nursing facility bed-hold days.

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 provisions for leave days for nursing facilities (NFs). This rule is being amended to clarify coverage of leave days for NF residents who are on home and community-based services (HCBS) waivers, and who are not using the NF for short-term respite care as a waiver service.

The changes to the rule are: references to the Ohio Department of Job and Family Services and ODJFS are being replaced with references to the Office of Medical Assistance and OMA; new language in paragraph (A)(4) clarifies that, for purposes of this rule, a NF is not defined as a medical institution; language in paragraphs (A)(6) and (F)(3) is being modified to account for HCBS consumers in a NF who use leave days for reasons other than hospitalization; references to calendar years 2011 and 2012 in paragraph (F)(2) are being removed, and consequently the paragraph is being restructured to conform to rule drafting guidelines; in paragraph (D)(4)(a), language is being added to specify that the reimbursement provisions for hospital leave days apply to NF residents on HCBS waivers; in paragraph (D)(4)(b)(i), the acronym CDJFS is being spelled out to conform with rule drafting guidelines, and the punctuation at the end of that paragraph is being changed for consistency; paragraphs (D)(4)(b)(iii) and (D)(4)(c)(iv) are being added to include reimbursement limits specific to NF residents on HCBS waivers; paragraphs (E)(1) and (E)(2) have been replaced with new paragraph (E), which contains updated language regarding claims submission; in paragraph (J)(1)(b), language is being added regarding Medicare Part A SNF benefits and resident eligibility for leave days; new language in paragraph (J)(6) establishes eligibility for leave days for the purpose of hospitalization only for NF residents on an HCBS waiver; language is being deleted in paragraph (K)(3) because it conflicts with the policy to cover hospital leave days for NF residents on an HCBS waiver; and in paragraph (K)(3), in order to be comprehensive, six citations of Administrative Code Chapters that contain eligibility criteria for the HCBS waiver program are being added to those already listed.

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 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 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 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. If applicable, indicate each specific paragraph of the rule that has been modified:

Not Applicable.

12. 119.032 Rule Review Date: **3/1/2017**

(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

This proposed rule will not change the agency's projected budget during the current biennium. The proposed rule codifies the payment methodology used prior to the Medicaid Information Technology System (MITS) implementation.

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:

No new costs.

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**

S.B. 2 (129th General Assembly) Questions

18. Has this rule been filed with the Common Sense Initiative Office pursuant to R.C. 121.82? **No**

19. Specific to this rule, answer the following:

A.) Does this rule require a license, permit, or any other prior authorization to engage in or operate a line of business? **No**

B.) Does this rule impose a criminal penalty, a civil penalty, or another sanction, or create a cause of action, for failure to comply with its terms? **No**

C.) Does this rule require specific expenditures or the report of information as a condition of compliance? **No**