

**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

**NEW**

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: **3721.16, 5111.33**

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

This rule is being adopted as part of a reorganization of rules administered by the Bureau of Long Term Care Facilities.

The provisions of a rule being proposed for rescission are being moved to this new 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 contains the bed-hold provisions for nursing facilities (NFs).

It replaces rule 5101:3-3-59, which is being proposed for rescission.

Changes from the rescinded rule include: definitions in paragraph (A) that are specific to nursing facility residency have been clarified, and "NF therapeutic leave day" has been added to the terms defined; a new provision in paragraph (B) prohibits preadmission bed-hold payments; paragraph (D)(4) contains a new provision stating that the number and frequency of bed-hold days used shall be considered when evaluating a resident's continuing need for NF care; paragraph (E) contains new provisions regarding electronic submission of bed-hold payment requests; paragraph (F)(2)(b) specifies the admission policy for a resident with exhausted bed-hold days in the context of a properly processed prior involuntary discharge; paragraph (F)(3)(b) clarifies the relationship of self-paid bed-hold payments to third-party bed-hold payments; in paragraph (J)(5), qualified medicare beneficiary (QMB) eligible residents have been added to the categories of residents for whom NF providers may receive bed-hold payments; paragraph (L) adds provisions regarding provider compliance with bed-hold restrictions and requirements; and the Appendix to this rule, "Nursing Facility Bed-Hold Days," has been removed.

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 Social Security Act. This question is not applicable to any incorporation by reference to the Social Security Act because such reference is exempt from compliance with ORC 121.71 to 121.74 pursuant to ORC 121.76(B)(2).

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).

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 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 ORC 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:

*Not Applicable.*

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

This proposed rule will not change the agency's projected budget during the current biennium.

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**