

**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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**5101:3-3-19**

Rule Number

**AMENDMENT**

TYPE of rule filing

Rule Title/Tag Line

**Relationship of other covered medicaid services to nursing facilities (NFs) and intermediate care facilities for the mentally retarded (ICFs-MR) services.****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? **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: **5111.20, 5111.263**

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

This rule is being proposed for amendment to comply with the five-year rule review requirements pursuant to Ohio Revised Code (ORC) Section 119.032.

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 identifies covered services generally available to medicaid recipients and describes the relationship of such services to those provided by a nursing facility (NF) or an intermediate care facility for the mentally retarded (ICF-MR). Changes to the proposed rule are as follows:

In the introductory paragraph of the proposed rule, "the provisions governing such reimbursement as set forth in Chapter 5101:3-3 of the Administrative Code are applicable." was corrected to read: "the rules governing such reimbursement are set forth in Chapter 5101:3-3 of the Administrative Code." The sentence "For state operated ICFs-MR reimbursement is made in accordance with rule 5101:3-3-99 of the Administrative Code." was stricken, and the last sentence of the introductory paragraph was edited to read: "All references to "ICFs-MR" in paragraphs (A) to (I) of this rule do not include state-operated ICFs-MR for which reimbursement is made in accordance with rule 5101:3-3-99 of the Administrative Code."

In paragraph (C)(2)(d) of the proposed rule, "except that emergency stand-by oxygen is" was changed to "except emergency stand-by oxygen which is."

Paragraph (D)(2) was shortened to simply point to Chapter 5101:3-9 of the Administrative Code and provisions established by the Ohio State Board of Pharmacy for limitations on pharmaceuticals reimbursable directly to the pharmacy provider. Paragraphs (D)(2)(a), (D)(2)(b) and (D)(2)(c) were stricken for being duplicative of language found in Chapter 5101:3-9 and provisions of the Ohio State Board of Pharmacy.

In paragraph (E)(1) of the proposed rule, references to rules 5101:3-3-47, 5101:3-3-47.3, and 5101:3-3-46 were corrected to 5101:3-3-46, 5101:3-3-46.3, and 5101:3-3-46.1, respectively. In paragraph (E)(2) of the proposed rule, "rule 5101:3-3-78 of the Administrative Code" was replaced with "sections 5111.20 to 5111.33 of the Revised Code." Paragraph (E)(3) of the proposed rule was deleted as psychologist services and respiratory therapy are addressed in paragraphs (E)(1) and (E)(2) of the proposed rule for NFs and ICFs-MR respectively.

The wording of paragraph (F)(1) was changed from "services provided by a physician to a resident of a NF or ICF-MR" to "services provided to a resident of a NF or ICF-MR by a physician." In paragraphs (F)(1)(c)(iii) and (F)(1)(c)(iv)(a) of the proposed rule, "nurse practitioner" was changed to "certified nurse practitioner" to comport with current terminology. Paragraph (F)(1)(c)(iv)(a) was expanded to reference Revised Code Chapter 4730 and Administrative Code Chapter 4730-1 for physician assistants, and Revised Code Chapter 4723 and Administrative Code Chapter 4723-4 for certified nurse practitioners. Duplicative language in subsequent paragraphs of the rule was stricken where the provisions were covered in Revised Code Chapters 4730 and 4723 and Administrative Code Chapters 4730-1 and 4723-4, and paragraph references were updated accordingly.

Existing paragraphs (G) and (H) regarding psychologist services and respiratory

therapy services respectively were deleted from the proposed rule, and the deleted language was included in paragraphs (E)(1) and (E)(2) to better organize the rule content. Lastly, new paragraphs (G) through (I) of the proposed rule were arranged in alphabetical order according to paragraph titles.

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 Ohio Revised Code because such reference is exempt from compliance with RC 121.71 to 121.74 pursuant to RC 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 any incorporation by reference to another OAC rule because such reference is exempt from compliance with RC 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: **8/7/2008**

(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**