

**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? **Yes**

Bill Number: **HB1**General Assembly: **128**Sponsor: **Sykes**

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, 5111.262**

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

This rule is being proposed for amendment to implement provisions of sections 5111.20, 5111.262, 309.30.20, and 309.30.25 of Amended Substitute House Bill 1 of the 128th General Assembly which changed how Medicaid will reimburse certain services provided to nursing facility (NF) residents.

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 covered services for Medicaid residents in nursing facilities (NFs). The proposed rule changes the method of reimbursement for oxygen; custom wheelchairs and repair; physical, occupational and speech language pathology/audiology therapy; medical transportation and some over-the-counter drugs. These services were previously provided by, and reimbursed to, fee-for-service providers. Amended Substitute House Bill 1 changed this arrangement by making NFs responsible for providing these services to Medicaid NF residents and by reimbursing NFs for the services through the facility per diem rate. Covered services for intermediate care facilities for the mentally retarded (ICFs-MR) are set forth in new rule 5101:3-3-19.1.

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 another Chapter of the Ohio Administrative Code (OAC). This question is not applicable to any incorporation by reference to another OAC Chapter because such reference is exempt from compliance with RC 121.71 to 121.74 pursuant to RC 121.76(A)(3).

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).

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).

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: **8/11/2009**

(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.

\$144 million

Amended Substitute House Bill 1 of the 128th General Assembly increases nursing facility (NF) rates for SFYs 2010 and 2011 by a consolidated services per diem of approximately \$3.91 in lieu of direct payment to fee-for-service (FFS) providers.

The consolidated services per diem reimburses providers for the provision of: oxygen; custom wheelchairs and repairs; skilled therapies (physical, occupational and speech-language pathology/audiology); medical transportation (ambulance and ambulette) and some over-the-counter drugs. The consolidated services per diem includes any cost sharing amounts related to the provision of these services for Medicaid consumers.

This will increase expenditures to NFs by approximately \$144 million over the

biennium. Reimbursement of these services to FFS providers will decrease by at least \$153 million.

Based on the best available data, the net reduction of expenditures to the department is \$7.2 million. \$2.5 million in savings is attributable to oxygen, \$3.8 million in savings is attributable to custom wheelchairs and \$3.4 million in savings is attributable to over-the-counter drugs. An increase in expenditures of \$2.5 million is attributable to medical transportation. No savings is attributable to the skilled therapies costs in the nursing facility per diem.

The consolidated services per diem was calculated by considering historic utilization in the nursing facility population, historic Medicaid cost data and market trends that impact purchasing strategies.

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

600-525

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 proposed changes to the current reimbursement method for these services may result in increased or decreased staffing and administrative costs relative to patient mix and acuity levels. Accordingly, the cost of compliance to directly affected persons will vary among all Medicaid providers and cannot be estimated at this time.

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**