

**Rule Summary and Fiscal Analysis (Part A)****Department of Job and Family Services**

Agency Name

**Division of Medical Assistance**

Division

**Mike Lynch**

Contact

**30 E. Broad St., 31st Floor ODJFS, Office of Legal Services Columbus OH 43215-3414**

Agency Mailing Address (Plus Zip)

**614-466-4605**

Phone

**614-752-8298**

Fax

**5101:3-3-30.1**

Rule Number

**AMENDMENT**

TYPE of rule filing

Rule Title/Tag Line

**Appeal of the franchise permit fee (FPF) determination.****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: **3721.58, 5112.39**

5. Statute(s) the rule, as filed, amplifies or implements: **3721.50, 3721.51, 3721.531, 3721.532, 3721.55, 5112.35**

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

Five year review.

To implement provisions of RC 3721.531 and 3721.532 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 provisions for appeal of the franchise permit fee (FPF) determination.

Changes to this rule are: The addition of "and re-determination" in the rule title; re-wording of paragraph (A) for clarification; and insertion of new language in paragraph (A) regarding an appeal of the FPF re-determination in accordance with section 3721.55 of the Revised Code.

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).

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 revenues.

\$0.00

The prevailing party in an appeal may ultimately pay less franchise permit fees, thereby decreasing revenues to the Department. However, the Department cannot estimate the impact of the proposed rule changes because the Department does not know how many facilities will submit appeals, or the outcome of those appeals.

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:

Providers may incur costs when filing an appeal of a franchise permit fee re-determination. However, the Department cannot provide an estimate of these costs because it will vary from provider to provider depending on their business practices. A prevailing party in an appeal may ultimately pay less franchise permit fees.

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.

County operated nursing facilities may incur costs if they appeal a franchise permit fee re-determination. However, the Department cannot provide an estimate of these costs because it will vary from provider to provider depending on their business practices. A prevailing party in an appeal may ultimately pay less franchise permit fees.

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.

County operated nursing facilities may incur costs if they appeal a franchise permit fee re-determination. However, the Department cannot provide an estimate of these costs because it will vary from provider to provider depending on their business practices.

(a) Personnel Costs

County operated nursing facilities may incur personnel costs if they appeal a franchise permit fee re-determination. However, the Department cannot provide an estimate of personnel costs because it will vary from provider to provider depending on their business practices.

(b) New Equipment or Other Capital Costs

The Department does not believe there is any impact on equipment or other capital costs as a result of this rule filing.

(c) Operating Costs

The Department does not believe there is any impact on operating costs as a result of this rule filing.

(d) Any Indirect Central Service Costs

The Department does not believe there is any impact on indirect central service costs as a result of this rule filing.

(e) Other Costs

County operated nursing facilities may incur other costs such as attorney fees. However, the Department cannot provide an estimate of these other costs because it will vary from provider to provider depending on their business practices.

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 cost of compliance 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 does not believe the proposed rule changes will impact economic development.