

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

5101:3-3-42

Rule Number

AMENDMENT

TYPE of rule filing

Rule Title/Tag Line

Nursing facilities (NFs): chart of accounts.**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, 5111.20, 5111.26, 5111.262**

5. Statute(s) the rule, as filed, amplifies or implements: **5111.02, 5111.20, 5111.26, 5111.262**

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

To implement Section 5111.20 of Am. Sub. H.B. 1 of the 128th General Assembly, to comply with Ohio Ambulance and Medical Transportation Association v. Lumpkin, Case No. 09CVH-07-11498, Franklin County Common Pleas Court, to update references, to correct typographical errors, and to make grammatical corrections.

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 chart of accounts for nursing facilities (NFs). The rule text is not being revised; however, the existing Appendix A, entitled "Chart of Accounts" is being rescinded and a new Appendix A with the same title is being enacted. The changes to the "Chart of Accounts" are as follows:

Pursuant to Am. Sub. H.B. 1, section 5111.20 (H)(2), "direct care costs" now include oxygen, over-the-counter pharmacy products, physical therapists, physical therapy assistants, occupational therapists, occupational therapy assistants, speech therapists and audiologists. The leading paragraph under Medical Supplies is being changed to add, "Beginning 08/01/09 report over-the-counter pharmacy product expenses in account 6301 or account 6311 pursuant to rule 5101:3-9-03 (J) of the Administrative Code. For those facilities participating in medicaid and not in medicare, all medical supplies are to be classified in account 6311. For those facilities participating in both the medicare and medicaid programs, medical supplies must be categorized and classified as follows:"

Account 6321 is being changed to read as follows:

6321 Oxygen - Emergency stand-by only

A new account for oxygen is being added as follows:

6322 Oxygen

Beginning 08/01/09 report all oxygen other than emergency stand-by oxygen in this account. This includes contents of oxygen cylinders or tanks, including liquid oxygen, oxygen producing machines (concentrators) for specific use by an individual recipient, and costs of equipment associated with oxygen administration, such as: carts, regulators/humidifiers, cannulas, masks, and demurrage, pursuant to rule 5101:3-3-19 of the Administrative Code.

The therapies is being added to the chart of accounts as numbers 6600, 6605, 6610, 6615, 6620, and 6630 respectively under a new section, "Direct Care Therapies". Beginning 08/01/09 use these accounts to report therapies. Account numbers 6640 through 6680.2 are being added to include such items as payroll taxes, employee fringe benefits, and staff development related to the "Direct Care Therapies".

Account number 6205 is being revised to delete the second paragraph referring to Cincinnati Municipal Code, Chapter 847, as this chapter has been repealed.

Under account number 7271, an incorrect sub-account number 7761.2 is being corrected to 7271.2.

In the description for account number 6330, reference to the version number of the minimum data set (MDS) resident assessment instrument is being deleted and replaced with a reference to the current version of the of the resident assessment instrument.

Account numbers 7055 and 7056 are being revised to delete the last sentence of each account description excluding "peptamen enteral nutritional therapy" and "parenteral nutritional therapy" because these services are now reimbursed to the nursing facility through the per diem payment.

Pursuant to Am. Sub. H.B. 1, section 5111.20 (B) and Ohio Ambulance and Medical Transportation Association v. Lumpkin, Case No. 09CVH-07-11498, Franklin County Common Pleas Court, "ancillary and support costs" now include "wheelchairs" and "resident transportation". To address this, account numbers 7735 and 7631 are being added as follows:

7735 Custom Wheelchairs (only 08/01/09 forward)

Beginning 08/01/09 this account includes the cost of all custom wheelchairs and related repairs. Report all expenses related to wheelchairs in this account except for those wheelchairs that meet capitalization guidelines.

7631 Resident Transportation

For the period 08/01/09 - 08/17/09 and for 10/01/09 and forward report all transportation expenses in this account except for expenses related to assets which meet capitalization guidelines and should be reported as capital assets in account 8050. Resident transportation costs for the period 08/18/09 - 09/30/09 are reimbursed on a direct bill basis.

Under the "non-reimbursable expenses" account category, account numbers 9600 through 9700.2 have been revised to indicate they are valid only through 07/31/09 and that beginning 08/01/09 "direct care therapy" account numbers 6600 through 6680.2 should be used. Account 9720 has been revised to read as follows:

9720 Oxygen - (only through 07/31/09). Beginning 08/01/09 and forward report all oxygen other than emergency stand-by oxygen in account number 6322. Emergency stand-by oxygen should be reported in account number 6321.

Two new revenue accounts are being added as follows:

5180 Resident Transportation

5190 Wheelchairs

References to the Code of Federal Regulations (CFR), are being updated throughout the chart of accounts to reflect the current CFR revision date.

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).

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:

RSFA, Part A question 4 - A reference to 5111.262 of the Ohio Revised Code is being added.

RSFA, Part A question 5 - A reference to 5111.262 of the Ohio Revised Code is being added.

RSFA, Part A question 6 - The stated reasons for proposing the rule are being elaborated.

RSFA, Part A question 7 - Reference updates and grammatical corrections are being made.

RSFA, Part A question 15 - Clarifying information is being added.

RSFA, Part A question 16 - The answer is being changed from NO to YES, and a RSFA Part B is being completed.

The Public Hearing Notice is being revised.

12. 119.032 Rule Review Date: **11/16/2009**

(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 have no impact on revenues or expenditures.

\$0.00

The 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:

The cost of compliance to affected persons should be nominal because the department provides the software. Some providers may need to adjust internal systems to match the proposed changes. The cost of compliance will be provider-specific and based on each provider's current business practices, thus the cost of compliance cannot be quantified by the department.

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.

The cost of compliance to a county home that is also a nursing facility (NF) provider should be nominal because the department provides the software used to create cost reports. Some providers may need to adjust internal systems to match the proposed changes. The cost of compliance will be provider-specific and based on each provider's current business practices, thus the cost of compliance cannot be quantified by the department.

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.

The department is unable to estimate the costs of compliance; however, providers who need to adjust internal systems to match the proposed changes may incur additional costs. The department is unable to project the number of providers who

will need to adjust their internal systems or the extent of those adjustments and accordingly cannot estimate this amount.

(a) Personnel Costs

The department is unable to determine the impact on personnel costs as a result of this rule filing, but believe the impact would be nominal. However, to the extent that a county home that is also a nursing facility (NF) provider needs to adjust their internal systems, there could be a corresponding increase in the amount of staffing required which, other things being equal, would translate into increased personnel costs for the enterprise.

(b) New Equipment or Other Capital Costs

The department does not believe there is any impact on equipment/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 costs to as a result of this rule filing.

(e) Other Costs

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

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 agency/department has funds allocated in its budget to pay for the software changes. The department provides the software annually to providers. The department is unable to quantify their ability to pay for the new requirements; however, the department expects the changes to be nominal and administrative costs are accounted for in the per diem rate paid to a county home that is also a

nursing facility (NF) provider.

7. Please provide a statement on the proposed rule's impact on economic development.

The department does not believe the proposed rule impacts economic development.