

**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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**5101:3-3-64**

Rule Number

**AMENDMENT**

TYPE of rule filing

Rule Title/Tag Line

**Nursing facility payment for medicare part A cost sharing.****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: **5111.02**

5. Statute(s) the rule, as filed, amplifies or implements: **5111.01, 5111.02, 5111.225**

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

Five year review.

To implement provisions of RC 5111.225 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 payment provisions for Medicare Part A cost sharing for nursing facilities.

This rule changes the medicaid maximum allowable amount from one hundred nine per cent of a nursing facility's per diem rate to one hundred per cent of the per diem rate.

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).

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).

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 expenditures.

\$5,826,747

This rule will decrease the Department's expenditures by decreasing the Medicaid maximum allowable amount for Medicare Part A cost sharing from one hundred nine per cent of a nursing facility's per diem rate to one hundred per cent of the per diem rate. The effective date of the change is January 1, 2012.

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

line item 600525

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:

This rule will reduce Medicaid reimbursement to providers by changing the Medicaid maximum allowable amount for Medicare Part A cost sharing from one hundred nine per cent of a nursing facility's per diem rate to one hundred per cent of the per diem rate. The Department cannot provide an estimate of the impact on each individual provider's reimbursement, because the amount of the reduction will vary from provider to provider, depending on the provider's per diem rate and the frequency at which they bill for Medicare Part A cost sharing.

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.

This rule will reduce Medicaid reimbursement to county operated nursing facilities by changing the Medicaid maximum allowable amount for Medicare Part A cost sharing from one hundred nine per cent of a county operated nursing facility's per diem rate to one hundred per cent of the per diem rate. The Department cannot provide an estimate of the impact on individual counties, because the amount of the reduction will vary from provider to provider, depending on the provider's per diem rate and the frequency at which they bill for Medicare Part A cost sharing.

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.

This rule will reduce Medicaid reimbursement to county operated nursing facilities by changing the Medicaid maximum allowable amount for Medicare Part A cost

sharing from one hundred nine per cent of a county operated nursing facility's per diem rate to one hundred per cent of the per diem rate. The Department cannot provide an estimate of the impact on individual counties, because the amount of the reduction will vary from provider to provider, depending on the provider's per diem rate and the frequency at which they bill for Medicare Part A cost sharing.

(a) Personnel Costs

This rule will reduce Medicaid reimbursement to county operated nursing facilities by changing the Medicaid maximum allowable amount for Medicare Part A cost sharing from one hundred nine per cent of a county operated nursing facility's per diem rate to one hundred per cent of the per diem rate. The Department cannot provide an estimate of the impact on personnel costs, because the amount of the reduction will vary from provider to provider, depending on the provider's per diem rate and the frequency at which they bill for Medicare Part A cost sharing.

(b) New Equipment or Other Capital Costs

This rule will reduce Medicaid reimbursement to county operated nursing facilities by changing the Medicaid maximum allowable amount for Medicare Part A cost sharing from one hundred nine per cent of a county operated nursing facility's per diem rate to one hundred per cent of the per diem rate. The Department cannot provide an estimate of the impact on new equipment or other capital costs, because the amount of the reduction will vary from provider to provider, depending on the provider's per diem rate and the frequency at which they bill for Medicare Part A cost sharing.

(c) Operating Costs

This rule will reduce Medicaid reimbursement to county operated nursing facilities by changing the Medicaid maximum allowable amount for Medicare Part A cost sharing from one hundred nine per cent of a county operated nursing facility's per diem rate to one hundred per cent of the per diem rate. The Department cannot provide an estimate of the impact on operating costs, because the amount of the reduction will vary from provider to provider, depending on the provider's per diem rate and the frequency at which they bill for Medicare Part A cost sharing.

(d) Any Indirect Central Service Costs

This rule will reduce Medicaid reimbursement to county operated nursing facilities by changing the Medicaid maximum allowable amount for Medicare

Part A cost sharing from one hundred nine per cent of a county operated nursing facility's per diem rate to one hundred per cent of the per diem rate. The Department cannot provide an estimate of the impact on indirect central service costs, because the amount of the reduction will vary from provider to provider, depending on the provider's per diem rate and the frequency at which they bill for Medicare Part A cost sharing.

(e) Other Costs

This rule will reduce Medicaid reimbursement to county operated nursing facilities by changing the Medicaid maximum allowable amount for Medicare Part A cost sharing from one hundred nine per cent of a county operated nursing facility's per diem rate to one hundred per cent of the per diem rate. The Department cannot provide an estimate of the impact on other costs, because the amount of the reduction will vary from provider to provider, depending on the provider's per diem rate and the frequency at which they bill for Medicare Part A cost sharing.

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 costs incurred as a result of the changes in this rule, 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 is unable to provide a statement on the proposed rule's impact on economic development because the Department cannot estimate the amount of financial impact on county operated nursing facilities, and cannot explain how that unknown impact will affect economic development.