

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

Agency Name

**Division Of Medical Assistance**

Division

**Mary H Mynatt**

Contact

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**5101:3-42-01**

Rule Number

**NEW**

TYPE of rule filing

Rule Title/Tag Line

**Medicaid home and community-based services program - level one waiver.****RULE SUMMARY**

1. Is the rule being filed consistent with the requirements of the RC 119.032 review? **No**

2. Are you proposing this rule as a result of recent legislation? **Yes**

Bill Number: **HB94 & 405** General Assembly: **124** Sponsor: **Carey**

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: **5111.85**

5. Statute(s) the rule, as filed, amplifies or implements: **5111.85, 5111.86, 5111.87, 5111.871, 5111.042, 5123.0410, 5123.045, 5126.046, 5126.055, 5126.15, 5126.036**

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

The Ohio Department of Job and Family Services (ODJFS) rule 5101:3-42-01 is being proposed as permanent to establish the home and community-based services level one waiver as a component of the Medicaid program and to authorize the Ohio Department of Mental Retardation and Developmental Disabilities (ODMRDD) as the daily administrator of the level one waiver 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:

The rule 5101:3-42-01 establishes the level one waiver as a component of the Medicaid program; authorizes ODMRDD as the daily administrator of the level one waiver program; authorizes ODMRDD rules that apply to the operation of the level one waiver program; identifies the general provisions of the level one waiver program; establishes the individual cost limitations for level one waiver services; and, sets forth the due process requirements related to the level one waiver program.

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 response left blank because filer specified online that the rule does not incorporate a text or other material by reference.*

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:

*This response left blank because filer specified online that the rule does not incorporate a text or other material by reference.*

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:

The rule, 5101:3-42-01, was placed in a "to be refiled" status in order to meet with affected parties to resolve pending issues. There are no changes to the rule body from the previous version.

## 12. 119.032 Rule Review Date:

(If 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: At 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.

600,000

The enactment of rule 5101:3-42-01 will increase expenditures and revenues for the Ohio Department of Job and Family Services (ODJFS) in the following ways:

(A) The establishment of the level one waiver program will increase expenditures in the following ways:

(1) ODJFS is projected to experience an increase in Medicaid state plan service usage due to an increased number of eligible individuals caused by level one waiver enrollment. The level one waiver program is projected to serve a maximum of 6,000 individuals within the initial three years of operation. It has been estimated that approximately 15% of individuals enrolled in the level one waiver program in the initial three year period of operation will be new to the Medicaid state plan program. The total cost associated with these enrollees for the remaining period of the current biennium is approximately 1.4 million dollars (this is based upon the assumption that the maximum number of individuals would be enrolled during the remainder of this biennium). ODJFS is responsible for paying the state matching funds for these state plan services. Currently, the state's portion of this projected amount is 42% or 600,000 million dollars. This cost projection does not include costs associated with oversight, monitoring, and compliance activities conducted by ODJFS.

The total cost projected for the next biennium related to state plan services for level one waiver enrollees who are new to the Medicaid program is approximately 24.3 million of which ODJFS will be responsible for 42% or an estimated 10.2 million dollars. This cost projection does not include costs associated with oversight, monitoring, and compliance activities conducted by ODJFS.

(2) ODJFS will experience an increase in expenditures due to the increase in oversight, monitoring and compliance activities associated with the operation and administration of the level one waiver program.

(3) ODJFS will experience an increase in expenditures due to waiver claim payments made to ODMRDD. The payment of these claims consists of level one waiver claims made by certified level one waiver providers for the provision of level one waiver services and the associated administrative costs that have been submitted to ODMRDD for payment. ODMRDD makes payment for these expenditures and forwards the claims onto ODJFS. ODJFS analyzes the waiver claims data for reconciliation and reimburses ODMRDD a percentage of the valid claims in accordance with the federal financial participation (FFP) requirements. The actual amount paid to ODMRDD for the provision of waiver services and the administration of the level one waiver program is viewed as the increase in expenditures associated with this waiver.

The current cost projections related to level one waiver services for the initial three years of waiver operation is approximately 105 million dollars. Of this projected amount county boards of mental retardation and developmental disabilities (CBMRDD) will provide the state matching funds at or around 42%. This amount is projected to be approximately 44 million dollars during the initial three year period of waiver operation.

(B)The enactment of rule 5101:3-42-01, with an effective date of January 1, 2003 will increase revenues for ODJFS in the following ways:

(1)ODJFS, as the single state Medicaid agency, submits a claim to the Centers for Medicare and Medicaid Services (CMS), in the amount reimbursed to ODMRDD for the provision of waiver services and the administration of the level one waiver program. The amount ODJFS receives from CMS through FFP is viewed as an increase in revenue.

(2)ODJFS receives 3/10 of a 1% fee that is paid to the Department by ODMRDD based upon direct waiver services provided to enrollees of all ODMRDD administered waivers. This fee is used by ODJFS to partially cover expenditures related to oversight, monitoring, and compliance activities associated with ODMRDD administered home and community-based waivers. The level one waiver program is projected to increase waiver capacity by adding a maximum of 6,000 new recipients over the initial three years of operation. This will, in turn, increase the amount ODJFS receives in the 3/10 of 1% fee, thus creating an increase in revenues for the Department at approximately 18 thousand dollars for the period remaining in this biennium.

The total increase in revenue for ODJFS during the next biennium associated with the 3/10 of a 1% fee related to level one waiver services is projected at approximately 297 thousand dollars.

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

- (1) The line item associated with the increase in state plan expenditures and the receipt of federal dollars through FFP is 600-525.
- (2) The line item associated with the expenditures related to the payment of waiver claims and the increase in revenue associated with the receipt of federal dollars through FFP is 600-655.
- (3) The line item associated with the increase in expenditures related to oversight, monitoring and compliance activities and the receipt of revenue related to the 3/10 of 1% fee is 600-629, fund 5S3.

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 implementation of the level one waiver increases the opportunity for individual and agency providers of home and community-based services to obtain additional business by becoming certified level one waiver providers. The costs associated with compliance as it relates to the proposed rule is difficult to determine at this time.

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**