

**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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**5101:3-42-01**

Rule Number

**AMENDMENT**

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? **No**

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, 5111.851, 5111.852, 5111.87, 5111.871, 5111.91, 5111.042**

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

This rule is being proposed for amendment to update service options developed with ODMRDD for 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:

This rule establishes the level one waiver as a component of the medicaid program. ODJFS proposes to amend this rule to add the following service options available on this waiver: adult day services, vocational habilitation, supported employment-enclave, supported employment-community, supported employment-adapted equipment, and non-medical transportation. Monitoring requirements will also be added in response to additional direction from the Centers for Medicare and Medicaid Services (CMS). Finally, it specifies an ending date for day habilitation and supported employment of 6/30/07.

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 the federally approved waiver document, which will be available on the internet at a dedicated site.

This rule incorporates one or more dated references to an ODJFS form or forms. Each cited ODJFS form is dated and is generally available to persons affected by this rule via the "Info Center" link on the ODJFS web site (<http://jfs.ohio.gov/>) in accordance with RC 121.75(E).

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).

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).

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:

The last sentence in paragraph C(2) was removed. Deleted 'emergency assistance' in paragraph F(8). In old paragraphs F(9) and F(10) which are now F(8) and F(9), deleted 'available until 6/30/07'. Deleted old paragraphs F(11) to F(16). Deleted old paragraphs G(4) and G(5). Old paragraph G(6) which is now G(4) was reworded.

12. 119.032 Rule Review Date: **7/1/2010**

(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

Not Applicable

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:

We anticipate additional cost to comply with new monitoring requirements,

however, due to the individualized nature of the monitoring, we are unable to estimate the potential impact.

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 was developed in accordance with section 5111.85 of the Revised Code in order to establish authorization for home and community-based waiver services administered by the Ohio Department of Mental Retardation and Developmental Disabilities (ODMRDD). Based upon additional instruction from the Centers for Medicare and Medicaid Services (CMS), individuals who do not require waiver services on a monthly basis must be monitored to assure their health and welfare. We anticipate additional cost to comply with these new monitoring requirements, however, due to the individualized nature of the monitoring, we are unable to estimate the potential impact.

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.

Costs associated with the following categories are not available.

(a) Personnel Costs

Costs associated with this category are not available. Costs in this category may differ from county to county depending upon the way in which each county chooses to manage their administrative obligations.

(b) New Equipment or Other Capital Costs

Costs associated with this category are not available. Costs in this category may differ from county to county depending upon the way in which each county chooses to manage their administrative obligations.

(c) Operating Costs

Costs associated with this category are not available. Costs in this category may differ from county to county depending upon the way in which each county chooses to manage their administrative obligations.

(d) Any Indirect Central Service Costs

Costs associated with this category are not available. Costs in this category may differ from county to county depending upon the way in which each county chooses to manage their administrative obligations.

(e) Other Costs

Costs associated with this category are not available. Costs in this category may differ from county to county depending upon the way in which each county chooses to manage their administrative obligations.

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.

County boards of mental retardation and developmental disabilities are responsible, through payment or pledges, for matching funds associated with the provision of ODMRDD administered home and community-based services which is approximately 42%.

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

This rule does not have a significant impact on economic development.