

**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, 5111.87, 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 to upadtae policy relating to the administration 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 purpose of this rule is to establish the Level One waiver as a component of the Medicaid Home and Community-Based Services program (HCBS) pursuant to sections 5166.20 and 5166.02 of the Revised Code. The following paragraphs are being amended:

Paragraph A is being amended to correct references to sections of the Ohio Revised Code and to correct the department's name to the Department of Medicaid (ODM).

Paragraph C is being amended to correct the referenced form revision date.

Paragraph F is being amended to incorporate the new waiver services.

Paragraph H (2)(e) is being amended to correct the references to sections of the Ohio Revised Code.

Paragraphs L and M is being amended to correct references to the Department of Medicaid and sections of the Ohio 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 Social Security Act. This question is not applicable to any incorporation by reference to the Social Security Act because such reference is exempt from compliance with ORC 121.71 to 121.74 pursuant to ORC 121.76(B)(2).

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 ORC 121.71 to 121.74 pursuant to ORC 121.76(A)(3).

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:

N/A

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. If applicable, indicate each specific paragraph of the rule that has been modified:

The following changes were made to the previously filed version of this rule:

Paragraph (E)(7)(b)(i): added "have emergency status or" and deleted "which includes emergency situations."

Paragraph (F) (2) Deleted "Institutional" and replaced with "Residential"

Paragraph (F) (7) Deleted "adaptive/assistive"

Paragraph (F) (15) Added "remote monitoring"

Paragraph (G) (2) (b) Deleted "Institutional" and replaced with "Residential"

Paragraph (G) (2) (b) through (G) (2) (d) Deleted "services"

Paragraph (G) (4) Deleted "institutional respite"

Paragraph (G) (5)(d) Deleted "supports" and replaced with "support"

Fiscal Analysis, Question 13. The estimated total amount was combined to reflect the sum of SFY '14 and SFY '15.

Fiscal Analysis, Question 14. Deleted "600-655 Pass Through Funds" and replaced with "651655 Medicaid Interagency Pass Through Funds".

12. 119.032 Rule Review Date: **9/1/2016**

(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 increase expenditures.

\$2,477,411.00

The estimated expenditures for providing the new services to the Level One enrollees are \$1,160,738.00 for State Fiscal Year 2014 and \$1,316,673.00 for State Fiscal Year 2015. The Office of Medical Assistance (OMA) will pass through the Federal Financial Participation (FFP) portion of these costs to the Department of Developmental Disabilities. The matching dollars will be provided by the County Boards of Developmental Disabilities.

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

651655 Medicaid Interagency Pass Through Funds

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 with the proposed rule will vary for each County Board of Developmental Disabilities (CBDD). The County Boards of Developmental Disabilities are responsible for the non-federal share of funds for individuals enrolled on the Level One waiver in their county. This amount may vary depending on the total number of enrollees and the service package selected by each waiver enrollee. The estimated cost of incorporating the new services into the Level One waiver program across all counties is approximately \$1.1 million for State Fiscal Year 14 and \$1.3 million for State Fiscal Year 15.

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**

**S.B. 2 (129th General Assembly) Questions**

18. Has this rule been filed with the Common Sense Initiative Office pursuant to R.C. 121.82? **No**

19. Specific to this rule, answer the following:

A.) Does this rule require a license, permit, or any other prior authorization to engage in or operate a line of business? **No**

The Department of Developmental Disabilities (DODD) submitted a Common Sense Initiative/Business Impact Analysis (CSI/BIA) pertaining to rules associated with the amendment of the Level One waiver program dated 3/7/13. The following DODD rules were included in the CSI/BIA document: 5123:2-9-06, 5123:2-9-22, 5123:2-9-23, 5123:2-9-24, 5123:2-9-25, 5123:2-9-26, 5123:2-9-27, 5123:2-9-29, 5123:2-9-30, 5123:2-9-34 and 5123:2-9-35. The Office of Medical Assistance (OMA) rules included in this rule package authorize the above referenced DODD rules and permit the services to be included in the Medicaid waiver program.

B.) Does this rule impose a criminal penalty, a civil penalty, or another sanction, or create a cause of action, for failure to comply with its terms? **No**

The Department of Developmental Disabilities (DODD) submitted a Common Sense Initiative/Business Impact Analysis (CSI/BIA) pertaining to rules associated with the amendment of the Level One waiver program dated 3/7/13. The following DODD rules were included in the CSI/BIA document: 5123:2-9-06, 5123:2-9-22, 5123:2-9-23, 5123:2-9-24, 5123:2-9-25, 5123:2-9-26, 5123:2-9-27, 5123:2-9-29, 5123:2-9-30, 5123:2-9-34 and 5123:2-9-35. The Office of Medical Assistance (OMA) rules included in this rule package authorize the above referenced DODD rules and permit the services to be included in the Medicaid waiver program.

C.) Does this rule require specific expenditures or the report of information as a condition of compliance? **No**

The Department of Developmental Disabilities (DODD) submitted a Common Sense Initiative/Business Impact Analysis (CSI/BIA) pertaining to rules associated with the amendment of the Level One waiver program dated 3/7/13. The following DODD rules were included in the CSI/BIA document: 5123:2-9-06, 5123:2-9-22, 5123:2-9-23, 5123:2-9-24, 5123:2-9-25, 5123:2-9-26, 5123:2-9-27, 5123:2-9-29, 5123:2-9-30, 5123:2-9-34 and 5123:2-9-35. The Office of Medical Assistance

(OMA) rules included in this rule package authorize the aboverferenced DODD rules and permit the services to be included in the Medicaid waiver program.

**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 amount will vary for each County Board of Developmental Disabilities (CBDD) depending on their unique business model and the number of individuals served.

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 amount will vary for each County Board of Developmental Disabilities (CBDD) depending on their unique business model and the number of individuals served.

(a) Personnel Costs

The amount will vary for each County Board of Developmental Disabilities (CBDD) depending on their unique business model and the number of individuals served.

(b) New Equipment or Other Capital Costs

The amount will vary for each County Board of Developmental Disabilities (CBDD) depending on their unique business model and the number of individuals served.

(c) Operating Costs

The amount will vary for each County Board of Developmental Disabilities (CBDD) depending on their unique business model and the number of individuals served.

(d) Any Indirect Central Service Costs

The amount will vary for each County Board of Developmental Disabilities (CBDD) depending on their unique business model and the number of individuals served.

(e) Other Costs

The amount will vary for each County Board of Developmental Disabilities (CBDD) depending on their unique business model and the number of individuals served.

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 amount will vary for each County Board of Developmental Disabilities (CBDD) depending on their unique business model and the number of individuals served.

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

The proposed rule will not have an impact on economic development.