

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

Agency Name

**Division of Medical Assistance**

Division

**Nancy Van Kirk**

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**5101:3-45-08**

Rule Number

**AMENDMENT**

TYPE of rule filing

Rule Title/Tag Line

**ODJFS-administered waiver program: Criminal records  
checks involving non-agency providers.****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: **5111.034, 5111.85**

5. Statute(s) the rule, as filed, amplifies or implements: **109.572, 5111.01, 5111.02, 5111.034, 5111.85**

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

Five-year review. This rule is being proposed to update and clarify language regarding the process and requirements for the criminal records checks of current and prospective non-agency providers of home and community-based services to consumers enrolled on an Ohio department of job and family services administered waiver. Most changes are the result of statutory changes brought about by sections 5111.034 and 109.572 of the Ohio Revised Code, enacted by Amended Substitute

House Bill 1 of the 128th General Assembly.

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 set forth the process and requirements for the criminal records checks of existing non-agency providers, and persons under final consideration for employment to provide home and community-based services to consumers enrolled on an Ohio department of job and family services (ODJFS) administered waiver.

Changes include:

Several offenses have been added to the list of disqualifying offenses;

Language has been added to clarify that the application of a conviction, guilty plea or intervention will be applied retroactively;

Language has been added to clarify that a disqualifying offense includes a violation of an existing or former municipal ordinance or law of the State of Ohio, any other state of the United States that is substantially equivalent to any other disqualifying offense set forth in this rule.

Language has been added to clarify that when two or more convictions or guilty pleas result from or are connected with the same act or result from offenses committed at the same time, they are counted as one conviction or guilty plea.

Language has been added to clarify that if a non-agency provider fails to submit a criminal records check within sixty days of notification, ODJFS or its designee shall immediately take steps to remove the non-agency provider from all All Services Plans until such time as the non-agency provider has satisfactorily completed all requirements of the rule.

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:

*Not Applicable.*

12. 119.032 Rule Review Date: **9/21/2009**

(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

This proposed rule will not impact on 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:

No new costs.

16. Does this rule have a fiscal effect on school districts, counties, townships, or municipal corporations? **No**

17. Does this rule deal with environmental protection or contain a component dealing with environmental protection as defined in R. C. 121.39? **No**