

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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Rule Number

NEW

TYPE of rule filing

Rule Title/Tag Line

Ohio home care waiver program: home care attendant services.**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: **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: **5111.85, 5111.8811**

5. Statute(s) the rule, as filed, amplifies or implements: **5111.01, 5111.02, 5111.88, 5111.881, 5111.882, 5111.883, 5111.884, 5111.885, 5111.886, 5111.887, 5111.888, 5111.889, 5111.8810**

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

This rule is being proposed to implement provisions of Sections 5111.88 through 5111.8810 of the Revised Code (Am. Sub. H.B. 1 of the 128th General Assembly) relating to the amendment of the Ohio Home Care Waiver to add home care attendant services, a new service and choice for consumers enrolled on the waiver.

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 will establish the requirements a home care attendant must meet in order to provide home care attendant services (HCAS), as well as the requirements the attendant must follow when providing HCAS. The consumer can train the attendant in cooperation with the authorizing health care professional.

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).

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).

This rule incorporates one or more references to the Code of Federal Regulations (CFR). This question is not applicable to those references in this rule because such references are exempt from compliance with ORC 121.71 to 121.74 pursuant to ORC 121.76(B)(2).

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).

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:

This rule is being revised to correct a citation in paragraph (E)(12)(d)(ii)(b). The reference to "paragraph (E)(11)(d)(ii)(a) of this rule" changed to "paragraph (E)(12)(d)(ii)(a) of this rule".

12. 119.032 Rule Review Date:

(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

The estimated impact this rule will have on the agency's projected budget during the current biennium is unknown at this time. Home care attendant services (HCAS) is primarily intended to be furnished in lieu of continuous nursing services (greater than four hours of state plan private duty nursing (PDN) and/or waiver nursing services). It is reimbursable at a rate that is lower than PDN and waiver nursing services. However, the department is unable to estimate the usage of HCAS and any corresponding changes in utilization of PDN and waiver nursing services because it is unknown as to how many waiver consumers will elect this service.

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:

The addition of home care attendant services (HCAS) has the potential to increase both the pool of, and Medicaid reimbursement to, non-agency providers. It also has the potential to reduce Medicaid reimbursement to agency providers of private duty nursing (PDN) services and waiver nursing services because (a) HCAS is furnished in lieu of those services, and (b) it can only be furnished by a non-agency provider. The department cannot provide an estimate of the impact on reimbursement because it is unknown as to how many waiver consumers will elect HCAS, the department is unable to estimate how many non-agency providers will seek to provide HCAS, and the reduction to agency providers will vary from provider to provider, depending upon the frequency at which consumers to whom they furnish PDN and waiver nursing services switch to HCAS.

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	Yes	Yes

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 addition of home care attendant services (HCAS) has the potential to increase both the pool of, and Medicaid reimbursement to, non-agency providers. It also has the potential to reduce Medicaid reimbursement to agency providers of private duty nursing (PDN) services and waiver nursing services because (a) HCAS is furnished in lieu of those services, (b) it can only be furnished by a non-agency provider. The Department cannot provide an estimate of the impact on reimbursement because it is unknown as to how many waiver consumers will elect HCAS, the department is unable to estimate how many non-agency providers will seek to provide HCAS, and the reduction to agency providers will vary from provider to provider, depending upon the frequency at which consumers to whom they furnish PDN and waiver nursing services switch to HCAS.

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 is being proposed to implement provisions of Sections 5111.88 through 5111.8810 of the Revised Code (Am. Sub. H.B. 1 of the 128th General Assembly) relating to the amendment of the Ohio Home Care Waiver to add home care attendant services, a new service and choice for consumers enrolled on the waiver.

(a) Personnel Costs

The addition of home care attendant services (HCAS) has the potential to increase the pool of, and Medicaid reimbursement to, non-agency providers. It also has the potential to reduce Medicaid reimbursement to agency providers of private duty nursing (PDN) services. To the extent that this reduction in reimbursement is a cost of compliance, and to the extent that providers of these services are counties, townships or municipal corporations, providers will receive less revenue which could be used to cover personnel costs when they bill for PDN. The Department cannot provide an estimate of the impact on reimbursement because it is unknown as to how many waiver consumers will elect HCAS, the department is unable to estimate how many non-agency providers will seek to provide HCAS, and the reduction to agency providers will vary from provider to provider, depending upon the frequency at which consumers to whom they furnish PDN and waiver nursing services switch to HCAS.

(b) New Equipment or Other Capital Costs

The addition of home care attendant services (HCAS) has the potential to increase the pool of, and Medicaid reimbursement to, non-agency providers. It also has the potential to reduce Medicaid reimbursement to agency providers of private duty nursing (PDN) services. To the extent that this reduction in reimbursement is a cost of compliance, and to the extent that providers of these services are counties, townships or municipal corporations, providers will receive less revenue which could be used to cover equipment/capital costs when they bill for PDN. The Department cannot provide an estimate of the impact on reimbursement because it is unknown as to how many waiver consumers will elect HCAS, the department is unable to estimate how many non-agency providers will seek to provide HCAS, and the reduction to agency providers will vary from provider to provider, depending upon the frequency at which consumers to whom they furnish PDN and waiver nursing services switch to HCAS.

(c) Operating Costs

The addition of home care attendant services (HCAS) has the potential to increase the pool of, and Medicaid reimbursement to, non-agency providers. It also has the potential to reduce Medicaid reimbursement to agency providers of private duty nursing (PDN) services. To the extent that this reduction in reimbursement is a cost of compliance, and to the extent that providers of these services are counties, townships or municipal corporations, providers will receive less revenue which could be used to cover operating costs when they bill for PDN. The Department cannot provide an estimate of the impact on reimbursement because it is unknown as to how many waiver consumers will elect HCAS, the department is unable to estimate how many non-agency providers will seek to provide HCAS, and the reduction to agency providers will vary from provider to provider, depending upon the frequency at which consumers to whom they furnish PDN and waiver nursing services switch to HCAS.

(d) Any Indirect Central Service Costs

The addition of home care attendant services (HCAS) has the potential to increase the pool of, and Medicaid reimbursement to, non-agency providers. It also has the potential to reduce Medicaid reimbursement to agency providers of private duty nursing (PDN) services. To the extent that this reduction in reimbursement is a cost of compliance, and to the extent that providers of these services are counties, townships or municipal corporations, providers will receive less revenue which could be used to cover indirect costs when they bill for PDN. The Department cannot provide an estimate of the impact on reimbursement because it is unknown as to how many waiver consumers will elect HCAS, the department is unable to estimate how many non-agency providers will seek to provide HCAS, and the reduction to agency providers will vary from provider to provider, depending upon the frequency at which consumers to whom they furnish PDN and waiver nursing services switch to HCAS.

(e) Other Costs

The addition of home care attendant services (HCAS) has the potential to increase the pool of, and Medicaid reimbursement to, non-agency providers. It also has the potential to reduce Medicaid reimbursement to agency providers of private duty nursing (PDN) services. To the extent that this reduction in reimbursement is a cost of compliance, and to the extent that providers of these services are counties, townships or municipal corporations, providers will receive less revenue which could be used to cover other costs when they bill for PDN. The Department cannot provide an estimate of the impact on reimbursement because it is unknown as to how many waiver

consumers will elect HCAS, the department is unable to estimate how many non-agency providers will seek to provide HCAS, and the reduction to agency providers will vary from provider to provider, depending upon the frequency at which consumers to whom they furnish PDN and waiver nursing services switch to HCAS.

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 addition of home care attendant services (HCAS) has the potential to increase the pool of, and Medicaid reimbursement to, non-agency providers. It also has the potential to reduce Medicaid reimbursement to agency providers of private duty nursing (PDN) services. To the extent that this reduction in Medicaid reimbursement imposes new requirements, and to the extent that providers of these services are counties, townships or municipal corporations, providers will receive less revenue as Medicaid reimbursement when they bill for the affected services. The Department cannot provide an estimate of the impact in reimbursement, because the amount of the reduction will vary from provider to provider, depending on their business model and the frequency at which they bill.

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

The addition of home care attendant services (HCAS) has the potential to increase the pool of, and Medicaid reimbursement to, non-agency providers. It also has the potential to reduce Medicaid reimbursement to agency providers of private duty nursing (PDN) services. The amount of the reduction may vary by county, township, or municipal corporation. Therefore, the Department cannot estimate the effect of the proposed rule on economic development.