

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

AMENDMENT

TYPE of rule filing

Rule Title/Tag Line

Non-medicaid-funded Ohio access success project.**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: **HB153**General Assembly: **129**Sponsor: **Amstutz**

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: **5111.97**

5. Statute(s) the rule, as filed, amplifies or implements: **5111.97**

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

This rule is being amended to implement amendments to RC Section 5111.97, adopted under Amended Substitute House Bill 153 of the 129th General Assembly, relating to the administration of the Ohio Access Success Project, and because of the five-year review and to clarify existing policy.

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 sets forth the application process, eligibility requirements and benefit limitations for the non-Medicaid-funded Ohio Access Success Project. Changes include the following:

Changes to the definition of "individual" in paragraph (B) clarify that the individual is a Medicaid recipient who is residing in a nursing facility (NF) and is seeking non-Medicaid-funded Ohio Access Success Project benefits. Changes to the description of goods and services in paragraph (C) add examples set forth in Revised Code statute. Changes to paragraph (C) clarify that no participant may receive more than \$2,000.00 worth of goods and services under the benefit, and part of the participant's allocation shall, if appropriate, be paid to a contractor for costs associated with the administration of the benefit. Pursuant to statute, changes to the eligibility requirements for the project found in paragraph (E) include the following: an individual no longer must require a NF level of care to qualify for the benefit; an individual must be a Medicaid-recipient of Medicaid-funded NF services at the time of application; the individual must be able to remain in the community as a result of receiving the benefit; and the individual must receive a determination from ODJFS or its designee that the individual's projected cost of services shall not exceed 80 percent of the state average monthly Medicaid cost of care for a Medicaid recipient residing in a NF. Additionally, paragraph (E)(3), which previously stated that an individual must "not meet the ICF-MR level of care as set forth in rule 5101:3-3-07 of the Administrative Code, has also been removed. Paragraphs (F) and (G), which explain the calculation of projected monthly service costs and the calculation of average monthly costs for an individual residing in a NF, are being moved under paragraph (E)(3). Changes to paragraph (F) clarify language pertaining to hearing rights.

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).

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: **7/14/2011**

(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

No impact on current budget.

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:

One of the changes to this rule requires that part of each participant's allocation shall, if appropriate, be paid to a contractor for costs associated with the administration of the benefit. Currently, approximately \$175.00 of each participant's \$2,000.00 maximum benefit is paid to the contractor for this purpose. Therefore, the estimated cost of compliance to the directly affected persons is approximately \$175.00 per participant.

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**