

Rule Summary and Fiscal Analysis (Part A)**Department of Mental Health**

Agency Name

Division

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Rule Number

AMENDMENT

TYPE of rule filing

Rule Title/Tag Line

Eligibility criteria.**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: **Representative 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: **5119.69, Section 1616(B)(2) of the Social Security Act**

5. Statute(s) the rule, as filed, amplifies or implements: **5119.69**

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

This rule is being amended to 1) Reflect changes made by rule renumbering and the transfer of licensing of adult foster homes and adult care facilities to the Ohio Department of Mental Health under House Bill 153 (129th General Assembly), and 2) Modify the process of determining whether certain individuals being discharged from a nursing facility meet the residential state supplement program eligibility criteria to require at least a protective level of care. This 2nd change will reduce delays in moving these individuals to a less restrictive setting after it has been

determined these individuals are ready for discharge from a nursing facility. Modifying this requirement will lead to decreases in the cost of funding treatment in nursing facilities at unnecessary levels.

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 lists the eligibility requirement for the Residential State Supplement program, and provides an exception for individuals in certain living arrangements prior to November, 1990.

Changes are made to correct ORC and OAC references based upon rule renumbering, modify the language describing the list of potential living arrangements, and change references from the Department of Aging to the Department of Mental Health. These changes reflect the transfer of licensing of adult care facilities and adult foster homes to the Ohio Department of Mental Health under House Bill 153 (129th General Assembly).

Language is being added to state that certain individuals being discharged from a nursing home automatically meet the criteria to need at least a protective level of care. In addition, (A)(12) is being deleted, as it is not an eligibility criteria.

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:

References are made to ORC, OAC and United States Code, which are generally available through the world wide web.

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:

1/3/2012

Modify question #14 on Rule Summary Fiscal Analysis to identify appropriation line items.

3/1/2012

Add additional language to (A)(5) to create a presumptive determination of needing at least a protective level of care, and modify questions #6, # 7 and #15 of the Rule Summary Fiscal Analysis in accordance with the change to (A)(5), including that certain individuals will be able to move into a less restrictive level of care sooner, and there will be a resulting cost savings to the state.

Delete (A)(12), and make minor changes in (A)(10) and (A)(11) to reflect this.

12. 119.032 Rule Review Date: **11/30/2011**

(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

Not applicable

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

335506 and 335622

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 Department estimates there is no increased cost of compliance. Many of the changes reflect only OAC/ORC references and terms to reflect the transfer of licensing from the Departments of Health and Aging to ODMH. In addition, the rule is being revised to create a presumption that an individual in a nursing facility receiving (or authorized for) medicaid vendor payment of the nursing facility stay, and being discharged from a nursing facility, is automatically determined to meet the need for at least a protective level of care. This will reduce delays in processing applications for the Residential State Supplement program, allow an individual determined ready to be discharged from a nursing facility to move into a less restrictive setting more quickly, and lead to decreases in the cost of funding treatment in nursing facilities at unnecessary levels.

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**