

Rule Summary and Fiscal Analysis

Part A - General Questions

Rule Number: 5160-3-16.3
Rule Type: Amendment
Rule Title/Tagline: Nursing facilities (NFs): private rooms.
Agency Name: Ohio Department of Medicaid
Division:
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I. Rule Summary

1. **Is this a five year rule review?** Yes
 - A. **What is the rule's five year review date?** 11/23/2018
2. **Is this rule the result of recent legislation?** No
3. **What statute is this rule being promulgated under?** 119.03
4. **What statute(s) grant rule writing authority?** 5165.02
5. **What statute(s) does the rule implement or amplify?** 5165.02
6. **What are the reasons for proposing the rule?**

Five-year review.
7. **Summarize the rule's content, and if this is an amended rule, also summarize the rule's changes.**

This rule sets forth the provisions for private rooms in nursing facilities.

The changes to the rule are:

1. In paragraph (A)(1), language is being added to clarify that infection control is an example of medical necessity requiring a nursing facility operator to provide a private room, if available, to a Medicaid eligible resident.

2. In paragraph (A)(2), language is being added to clarify that Medicaid payment shall be considered payment in full, and no supplemental payment may be requested or accepted from a resident or from a resident's authorized representative or family.

3. In paragraph (B)(2), language is being added to clarify that, when semiprivate or ward accommodations are not available, Medicaid will not pay more for a private room than the current Medicaid per diem rate, and no supplemental payment may be requested or accepted from the resident, or from a resident's authorized representative or family.

4. In paragraph (C), language is being added to clarify that, when semiprivate or ward accommodations are available but the resident or resident's authorized representative or family member makes a written request for a private room, the nursing facility may seek supplemental payment from the resident's authorized representative or family.

5. In paragraph (C)(3), language is being added to clarify that, when supplemental payment is made for a private room, the nursing facility operator must detail the supplemental charges, if applicable, on a resident's statement of charges so the additional cost of the private room is evident to the resident and the resident's authorized representative and family.

6. In paragraph (C)(5), language regarding patient liability is being re-written to be more clear and succinct.

7. Throughout the rule, the term "representative" is being changed to "authorized representative" in order to use more precise terminology.

8. Grammatical changes are being made throughout the rule to improve readability.

8. Does the rule incorporate material by reference? No

9. If the rule incorporates material by reference and the agency claims the material is exempt pursuant to R.C. 121.71 to 121.76, please explain the basis for the exemption and how an individual can find the referenced material.

Not Applicable

10. If revising or re-filing the rule, please indicate the changes made in the revised or re-filed version of the rule.

Not Applicable

II. Fiscal Analysis

- 11. As a result of this proposed rule, please estimate the increase / decrease in revenues or expenditures affecting this agency, or the state generally, in the current biennium or future years. If the proposed rule is likely to have a different fiscal effect in future years, please describe the expected difference and operation.**

This will have no impact on revenues or expenditures.

\$0.00

No impact on current budget.

- 12. What are the estimated costs of compliance for all persons and/or organizations directly affected by the rule?**

In accordance with paragraph (B) of this rule, if semiprivate or ward accommodations are not available, Medicaid shall not pay more for a private room than the Medicaid per diem rate the facility currently is receiving. The Department of Medicaid cannot estimate a nursing facility provider's cost of compliance with this provision because the Department of Medicaid does not know what the per diem private room rate or Medicaid per diem rate is for any particular nursing facility, how many residents at any particular facility would qualify for a private room under this provision, or how many days those residents would qualify for a private room under this provision.

In accordance with paragraph (C)(3) of this rule, if supplemental payment is made for a private room, a nursing facility operator must detail both monthly and annual supplemental charges, if applicable, on a resident's statement of charges so the additional cost of the private room is evident to the resident and to the resident's authorized representative and family. The Department of Medicaid estimates it will take nursing facility staff approximately 2 hours per year at an estimated rate of approximately \$12.50 per hour (total estimated cost: \$25.00 per year) to detail monthly and annual supplemental charges on one resident's statement of charges.

In accordance with paragraph (C)(4) of this rule, a nursing facility operator must keep written requests for a private room in the requesting resident's file. The Department of Medicaid estimates it will take nursing facility staff approximately 5 minutes at an estimated rate of approximately \$12.50 per hour (total estimated cost: \$1.04) to file one resident's written request for a private room.

13. **Does the rule increase local government costs? (If yes, you must complete an RSFA Part B). Yes**
14. **Does the rule regulate environmental protection? (If yes, you must complete an RSFA Part C). No**

III. Common Sense Initiative (CSI) Questions

15. **Was this rule filed with the Common Sense Initiative Office? Yes**
16. **Does this rule have an adverse impact on business? Yes**
 - A. **Does this rule require a license, permit, or any other prior authorization to engage in or operate a line of business? No**
 - 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**
 - C. **Does this rule require specific expenditures or the report of information as a condition of compliance? Yes**

In accordance with paragraph (C)(3) of this rule, if supplemental payment is made for a private room, a nursing facility operator must detail both monthly and annual supplemental charges, if applicable, on a resident's statement of charges so the additional cost of the private room is evident to the resident and to the resident's authorized representative and family.

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Part B - Local Governments Questions

1. Does the rule increase costs for:

A. Public School Districts	No
B. County Government	Yes
C. Township Government	No
D. City and Village Governments	Yes

2. Please estimate the total cost, in dollars, of compliance with the rule for the affected local government(s). If you cannot give a dollar cost, explain how the local government is financially impacted.

County and city/village governments that operate nursing facilities could incur costs of compliance with the proposed rule. The costs of compliance are the following:

In accordance with paragraph (B) of this rule, if semiprivate or ward accommodations are not available, Medicaid shall not pay more for a private room than the Medicaid per diem rate the facility currently is receiving. The Department of Medicaid cannot estimate a nursing facility provider's cost of compliance with this provision because the Department of Medicaid does not know what the per diem private room rate or Medicaid per diem rate is for any particular nursing facility, how many residents at any particular facility would qualify for a private room under this provision, or how many days those residents would qualify for a private room under this provision.

In accordance with paragraph (C)(3) of this rule, if supplemental payment is made for a private room, a nursing facility operator must detail both monthly and annual supplemental charges, if applicable, on a resident's statement of charges so the additional cost of the private room is evident to the resident and to the resident's authorized representative and family. The Department of Medicaid estimates it will take nursing facility staff approximately 2 hours per year at an estimated rate of approximately \$12.50 per hour (total estimated cost: \$25.00) to detail monthly and annual supplemental charges on one resident's statement of charges.

In accordance with paragraph (C)(4) of this rule, a nursing facility operator must keep written requests for a private room in the requesting resident's file. The Department of Medicaid estimates it will take nursing facility staff approximately 5 minutes at an

estimated rate of approximately \$12.50 per hour (total estimated cost: \$1.04) to file one resident's written request for a private room.

However, these costs are existing costs of compliance. There are no new costs of compliance with this rule filing.

- 3. Is this rule the result of a federal government requirement? No**
- A. If yes, does this rule do more than the federal government requires? *Not Applicable***
- B. If yes, what are the costs, in dollars, to the local government for the regulation that exceeds the federal government requirement?**
- Not Applicable*
- 4. Please provide an estimated cost of compliance for the proposed rule if it has an impact on the following:**
- A. Personnel Costs**
- \$26.04
- B. New Equipment or Other Capital Costs**
- \$0.00
- C. Operating Costs**
- \$0.00
- D. Any Indirect Central Service Costs**
- \$0.00
- E. Other Costs**
- \$0.00
- 5. Please explain how the local government(s) will be able to pay for the increased costs associated with the rule.**

There are no increased costs to providers associated with this rule filing. All costs of compliance are existing costs.

6. What will be the impact on economic development, if any, as the result of this rule?

There is no discernible impact on economic development as a result of this proposed rule.