

## Rule Summary and Fiscal Analysis

### Part A - General Questions

**Rule Number:** 5160-3-16.3

**Rule Type:** New

**Rule Title/Tagline:** Nursing facilities (NFs): private rooms.

**Agency Name:** Ohio Department of Medicaid

**Division:**

**Address:** 50 Town St 4th floor Columbus OH 43218-2709

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#### I. Rule Summary

1. **Is this a five year rule review?** No
  - A. **What is the rule's five year review date?**
2. **Is this rule the result of recent legislation?** Yes
  - A. **If so, what is the bill number, General Assembly and Sponsor?** HB 33 - 135  
- Jay Edwards
3. **What statute is this rule being promulgated under?** 119.03
4. **What statute(s) grant rule writing authority?** 5160.02, 5165.02
5. **What statute(s) does the rule implement or amplify?** 5165.01, 5165.158
6. **Does the rule implement a federal law or rule in a manner that is more stringent or burdensome than the federal law or regulation requires?** No
  - A. **If so, what is the citation to the federal law or rule?** Not Applicable
7. **What are the reasons for proposing the rule?**

To implement HB 33

**8. Summarize the rule's content, and if this is an amended rule, also summarize the rule's changes.**

This rule sets forth the provisions of the private room coverage policy and reimbursement rates, including incentive payments for approved providers. This rule is being proposed for adoption to implement provisions of Section 5165.158 of Am Sub HB 33, 135th General Assembly. To be eligible for incentive payment, facilities must submit an application and be determined eligible by Ohio Department of Medicaid (ODM), pending approval by the Centers for Medicare and Medicaid Services (CMS) for nursing facility private room incentive payments. This rule is being proposed for adoption and replaces rule 5160-3-16.3, which is being proposed for rescission. The differences between this rule and the rule it is replacing are:

- In paragraph (A)(3), new language is being added regarding providing private room accommodation in accordance with sections 5165.01 and 5165.158 of the Revised Code.
- In paragraphs (B)(1)(2)(3) language is being updated for payment reimbursement for private rooms.
- In paragraph (C)(1)(2), the process to apply and receive the private room incentive payment is being added.
- In paragraph (C)(3), reconsideration language is being added.
- In paragraph (C)(4), change of operator language is being added.
- Regulatory restrictions are being removed from the rescinded rule and are not being added to the new rule.
- Paragraphs are being re-numbered as necessary.

**9. Does the rule incorporate material by reference? No**

**10. If the rule incorporates material by reference and the agency claims the material is exempt pursuant to R.C. 121.75, please explain the basis for the exemption and how an individual can find the referenced material.**

*Not Applicable*

**11. 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**

**12. Please estimate the increase / decrease in the agency's revenues or expenditures in the current biennium due to this rule.**

This will have no impact on revenues or expenditures.

\$0.00

Not Applicable

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

The Department is unable to quantify the amount of time the nursing facility will be involved in activities related to preparing and issuing notices to a resident's representative or family member when they choose to pay an additional amount for a private room not approved by the department. These activities will vary by facility since it is impossible to know which individuals will be interested in paying extra for a private room, as applicable.

The department anticipates that a nursing facility administrator may perform all of the following activities at an average cost of \$72 per hour:

In accordance with paragraph (C)(1) the department anticipates it will take two hours to prepare the information and documentation needed to submit an application for the facility, at an estimated cost of \$144.

In accordance with paragraph (C)(1)(a) the department anticipates it will take 30 minutes to submit the online application, at an estimated cost of \$36.

In accordance with paragraph (C)(2)(b) the department anticipates it will take one hour to submit additional information requested by the department, at an estimated cost of \$72.

In accordance with paragraph (C)(3) the department anticipates it will take one hour to submit a reconsideration for any denial, at an estimated cost of \$72.

In accordance with paragraph(C)(4) the department anticipates it will take one hour to attest that the original information submitted by the nursing facility prior to a change of operator is true and accurate and to disclose any information that is different from the original application submission, at an estimated cost of \$72.

The Department is unable to quantify the amount of time the nursing facility will be involved in activities related to the surrendering of beds or facility renovations in order to qualify for private room incentive payments. These activities will vary by facility since it is impossible to know how many beds a facility will surrender.

14. **Does the rule increase local government costs? (If yes, you must complete an RSFA Part B). Yes**
15. **Does the rule regulate environmental protection? (If yes, you must complete an RSFA Part C). No**
16. **If the rule imposes a regulation fee, explain how the fee directly relates to your agency's cost in regulating the individual or business.**

Not Applicable

### **III. Common Sense Initiative (CSI) Questions**

17. **Was this rule filed with the Common Sense Initiative Office? Yes**
18. **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? Yes**

In accordance with paragraph (C)(1)(a) of this rule, a nursing facility must apply in the form and manner prescribed by ODM.

- 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)(1)(b) of this rule, list of all rooms and their corresponding number of beds, designating the rooms for which private room incentive payment approval is requested and identifying which rooms are category one and category two private rooms as defined in section 5165.158 of the Revised Code.

In accordance with paragraph (C)(1)(c) of this rule, floor plan of the entire facility which identifies and shows the location of each private room with the designated room number and designated bathroom. Arrows should indicate

the path between each resident room and the bathroom and each resident room and the hallway.

In accordance with paragraph (C)(1)(d) of this rule, documentation evidencing the private room meets the criteria in paragraph (C)(2) of section 5165.158 of the Revised Code.

In accordance with paragraph (C)(1)(e) of this rule, attestation in the form and manner prescribed by the department that the information submitted by the facility is accurate and truthful.

- D. **Is it likely that the rule will directly reduce the revenue or increase the expenses of the lines of business of which it will apply or applies?** No

**IV. Regulatory Restriction Requirements under S.B. 9. Note: This section only applies to agencies described in R.C. 121.95(A).**

19. **Are you adding a new or removing an existing regulatory restriction as defined in R.C. 121.95?** No

- A. **How many new regulatory restrictions do you propose adding to this rule?**

Not Applicable

- B. **How many existing regulatory restrictions do you propose removing from this rule?**

Not Applicable

- C. **If you are not removing existing regulatory restrictions from this rule, please list the rule number(s) from which you are removing restrictions.**

Not Applicable

- D. **Please justify the adoption of the new regulatory restriction(s).**

Not Applicable

## Rule Summary and Fiscal Analysis

### Part B - Local Governments Questions

**1. Does the rule increase costs for:**

<b>A. Public School Districts</b>	No
<b>B. County Government</b>	Yes
<b>C. Township Government</b>	No
<b>D. City and Village Governments</b>	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:

The Department is unable to quantify the amount of time the nursing facility will be involved in activities related to preparing and issuing notices to a resident's representative or family member when they choose to pay an additional amount for a private room not approved by the department. These activities will vary by facility since it is impossible to know which individuals will be interested in paying extra for a private room, as applicable.

The department anticipates that a nursing facility administrator may perform all of the following activities at an average cost of \$72 per hour:

In accordance with paragraph (C)(1) the department anticipates it will take two hours to prepare the information and documentation needed to submit an application for the facility, at an estimated cost of \$144.

In accordance with paragraph (C)(1)(a) the department anticipates it will take 30 minutes to submit the online application, at an estimated cost of \$36.

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In accordance with paragraph (C)(3) the department anticipates it will take one hour to

submit a reconsideration for any denial, at an estimated cost of \$72.

In accordance with paragraph(C)(4) the department anticipates it will take one hour to attest that the original information submitted by the nursing facility prior to a change of operator is true and accurate and to disclose any information that is different from the original application submission, at an estimated cost of \$72.

The Department is unable to quantify the amount of time the nursing facility will be involved in activities related to the surrendering of beds or facility renovations in order to qualify for private room incentive payments. These activities will vary by facility since it is impossible to know how many beds a facility will surrender.

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**  
  
\$0.00
  - 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 of compliance.

- 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.