

Rule Summary and Fiscal Analysis (Part A)**Ohio Department of Medicaid**

Agency Name

Division

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5160-3-16.5

Rule Number

AMENDMENT

TYPE of rule filing

Rule Title/Tag Line

Personal needs allowance (PNA) accounts and other resident funds for nursing facilities (NFs).**RULE SUMMARY**

1. Is the rule being filed for five year review (FYR)? **Yes**
2. Are you proposing this rule as a result of recent legislation? **No**
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: **5162.02**
5. Statute(s) the rule, as filed, amplifies or implements: **3721.15, 5162.21, 5162.23**
6. State the reason(s) for proposing (i.e., why are you filing,) this rule:
Five-year review.
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 provisions for the management and use of nursing facility

personal needs allowance (PNA) accounts and other resident funds.

The changes to the rule are:

1. The rule title is being modified in order to be consistent with the titles of other nursing facility rules in Chapter 5160-3 of the Administrative Code.
2. In the opening paragraph, the revision date of the reference to the Code of Federal Regulations is being updated.
3. Ohio Administrative Code references are being updated due to the creation of the Ohio Department of Medicaid by Am. Sub. HB 59 of the 130th General Assembly and the subsequent renumbering of rules by the Legislative Services Commission.
4. The Department's name is being updated from the Ohio Department of Job and Family Services (ODJFS) or the ODJFS office of Ohio Health Plans (OHP) to the Ohio Department of Medicaid (ODM).
5. An Ohio Revised Code citation is being updated because Am. Sub. HB 59 of the 130th General Assembly created the Ohio Department of Medicaid, and subsequently relocated and reorganized many Revised Code provisions governing the Medicaid program.
6. Form references are being updated and grammatical errors are being corrected.

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 Administrative Code. This question is not applicable to any incorporation by reference to another OAC rule because such reference is exempt from compliance with ORC 121.71 to 121.74 pursuant to ORC 121.76(A)(3).

This rule incorporates one or more references to the Ohio Revised Code. This question is not applicable to any incorporation by reference to the ORC because such reference is exempt from compliance with ORC 121.71 to 121.74 pursuant to ORC 121.76(A)(1).

This rule incorporates one or more dated references to the Code of Federal Regulations (CFR). This question is not applicable to any dated incorporation by reference to the Code of Federal Regulations because such reference is exempt from compliance with ORC 121.71 to 121.74 in accordance with ORC 121.75(D).

This rule incorporates one or more dated references to an ODM form or forms. Each cited ODM form is dated and is generally available to persons affected by this rule via the "Resources" link on the ODM web site (<http://medicaid.ohio.gov>) in accordance with ORC 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. If applicable, indicate each specific paragraph of the rule that has been modified:

Not Applicable.

12. Five Year Review (FYR) Date: **12/8/2014**

(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

This proposed rule will not change the agency's projected budget during the current biennium.

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 Department estimates a nursing facility provider will spend approximately 15-20 minutes per month at an estimated rate of \$12.50 per hour (total estimated cost per month: \$3.13 - \$4.13) to manage a resident's personal needs allowance (PNA) account. Management of a PNA account includes: maintenance of ledger accounts showing deposit and credit of funds, as well as credit of any interest earned; provision to the resident of access to petty cash; provision of receipts for all transactions; provision of quarterly statements; notification to a resident when the amount in the resident's PNA account reaches \$200 less than the resource limit; notification to the County Department of Job and Family Services when a resident's PNA account balance exceeds the resource limit; and release of funds upon discharge, or conveyance of funds upon death.

The Department estimates it will cost a nursing facility provider a total of approximately \$9.61 to notify the Department of Medicaid by certified mail prior to the cancellation of their surety bond. The total approximate cost is based on an estimated 15 minutes of staff time at an estimated rate of \$12.50 per hour, plus \$6.48, which is the cost to post and send a letter by certified mail via the U.S. Postal Service.

However, these costs are existing costs of compliance. There are no new costs of compliance as a result of this rule filing.

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**

S.B. 2 (129th General Assembly) Questions

18. Has this rule been filed with the Common Sense Initiative Office pursuant to R.C. 121.82? **Yes**

19. Specific to this rule, answer the following:

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**

According to paragraph (C)(4), a nursing facility must explain verbally and in writing to a resident or the resident's representative that PNA funds are for the resident to use as he or she chooses.

According to paragraph (F)(1)(a), a nursing facility must give written notification to a resident whose PNA account is managed by the facility when the amount in the resident's PNA account reaches \$200 less than the resource limit, in accordance with OAC rules 5160:1-3-05 and 5160:1-3-01.1.

According to paragraph (F)(2)(a), a nursing facility must report to the County Department of Job and Family Services any PNA account balance that exceeds the resource limit.

According to paragraph (I)(3), if a nursing facility cancels their surety bond, the facility must notify the Department of Medicaid by certified mail 30 days prior to the effective date of the cancellation.

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	No	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.

Counties and municipal corporations that operate nursing facilities could incur a cost of compliance with the proposed rule. The cost of compliance is the requirement to manage a resident's personal funds needs allowance (PNA) account on behalf of the resident upon written authorization by the resident or the resident's representative.

The cost of compliance with the requirement to manage a resident's PNA account is estimated at \$3.13 - \$4.13 per month.

An additional cost of compliance is the requirement for a nursing facility to notify the Department of Medicaid by certified mail prior to the cancellation of the facility's surety bond.

The cost of compliance with the requirement to notify ODM by certified mail prior to the cancellation of the surety bond is estimated at \$9.61 per occurrence.

These costs are existing costs of compliance. There are no new costs of compliance.

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.

The Department estimates a nursing facility provider will spend approximately 15-20 minutes per month at an estimated rate of \$12.50 per hour (total estimated cost per month: \$3.13 - \$4.13) to manage a resident's personal needs allowance (PNA) account. Management of a PNA account includes: maintenance of ledger accounts showing deposit and credit of funds, as well as credit of any interest earned; provision to the resident of access to petty cash; provision of receipts for all transactions; provision of quarterly statements; notification to a resident when the amount in the resident's PNA account reaches \$200 less than the resource limit; notification to the County Department of Job and Family Services when a resident's PNA account balance exceeds the resource limit; and release of funds upon discharge, or conveyance of funds upon death.

The Department estimates it will cost a nursing facility provider a total of approximately \$9.61 to notify the Department of Medicaid by certified mail prior to the cancellation of their surety bond. The total approximate cost is based on an estimated 15 minutes of staff time at an estimated rate of \$12.50 per hour, plus \$6.48, which is the cost to post and send a letter by certified mail via the U.S. Postal Service.

However, these costs are existing costs of compliance. There are no new costs of compliance as a result of this rule filing.

(a) Personnel Costs

The Department estimates a nursing facility provider will spend approximately 15-20 minutes per month at an estimated rate of \$12.50 per hour (total estimated cost per month: \$3.13 - \$4.13) to manage a resident's personal needs allowance (PNA) account. Management of a PNA account includes: maintenance of ledger accounts showing deposit and credit of funds, as well as credit of any interest earned; provision to the resident of access to petty cash; provision of receipts for all transactions; provision of quarterly statements; notification to a resident when the amount in the resident's PNA account reaches \$200 less than the resource limit; notification to the County Department of Job and Family Services when a resident's PNA account balance exceeds the resource limit; and release of funds upon discharge, or conveyance of funds upon death.

The Department estimates it will cost a nursing facility provider a total of

approximately \$9.61 to notify the Department of Medicaid by certified mail prior to the cancellation of their surety bond. The total approximate cost is based on an estimated 15 minutes of staff time at an estimated rate of \$12.50 per hour, plus \$6.48, which is the cost to post and send a letter by certified mail via the U.S. Postal Service.

However, these costs are existing costs of compliance. There are no new costs of compliance as a result of this rule filing.

(b) New Equipment or Other Capital Costs

ODM does not expect that the proposed rule will result in any new equipment or other capital costs to Medicaid providers of nursing facility services.

(c) Operating Costs

ODM does not expect that the proposed rule will result in any operating costs to Medicaid providers of nursing facility services.

(d) Any Indirect Central Service Costs

ODM does not expect that the proposed rule will result in any indirect central service costs to Medicaid providers of nursing facility services.

(e) Other Costs

ODM does not expect that the proposed rule will result in any other costs to Medicaid providers of nursing facility services.

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 cost of compliance with the requirement to manage a resident's PNA account is estimated at \$3.13 - \$4.13 per month, and the cost of compliance with the requirement to notify ODM by certified mail prior to the cancellation of the surety bond is estimated at \$9.61 per occurrence.

These are minimal amounts that will have no appreciable fiscal impact on a local government.

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

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