

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

Agency Name

Division

Tommi Potter

Contact

50 Town St 4th floor Columbus OH 43218-2709

Agency Mailing Address (Plus Zip)

614-752-3877

Phone

Fax

tommi.potter@medicaid.ohio.gov

Email

5160-3-17.3

Rule Number

RESCISSION

TYPE of rule filing

Rule Title/Tag Line

Out-of-state nursing facility (NF) services for individuals with traumatic brain injury (TBI).**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? **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: **5164.02, 5165.153**

5. Statute(s) the rule, as filed, amplifies or implements: **5165.01, 5165.07, 5165.153**

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

Five-year review

This rule is being proposed for rescission. The Department has determined it no longer needs to have an out-of-state NF-TBI program because no Medicaid payments for the provision of out-of-state NF-TBI services have been made since August 20, 2000. General out-of-state provisions contained in OAC rule 5160-1-11

will continue to govern out-of-state Medicaid coverage.

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 out-of-state nursing facility services for individuals with traumatic brain injury.

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 "Rancho Los Amigos Levels of Cognitive Functioning" scale, which is generally available on the internet to persons who reasonably can be expected to be affected by this rule at https://www.rancho.org/Research_RanchoLevels.aspx.

This rule incorporates one or more dated references to an ODJFS form or forms. Each cited ODJFS form is dated and is generally available to persons affected by this rule via the "Info Center" link on the ODJFS web site (<http://jfs.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. 119.032 Rule Review Date: **7/1/2014**

(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 because there are currently no out-of-state NF-TBI providers, and no Medicaid payments for the provision of out-of-state NF-TBI services have been made since August 20, 2000.

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:

No new costs of compliance

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**

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? **Yes**

The following requirement will be eliminated with the rescission of this rule:

This rule requires prior authorization for Medicaid reimbursement for the provision of out-of-state nursing facility services for individuals with traumatic brain injury.

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**

All of the following requirements will be eliminated with the rescission of this rule:

The services an out-of-state NF-TBI provider must furnish are not itemized within this rule. However, by incorporating OAC rule 5160-3-17.1 by reference, this rule does require providers who choose to provide out-of-state NF-TBI services to furnish, or arrange to have furnished, all of the following services: 24-hour skilled nursing care; personal care services; dietary supplements for oral feeding; serial casting and splinting; orthotic services; physical, occupational, and speech therapy, psychosocial services; cognitive retraining; neurobehavioral rehabilitation; and professional consultation services, including audiology, neuropsychology, optometry, dermatology, gastroenterology, general surgery, gynecology, internal medicine; neurology, neuropsychiatry, neurosurgery, ophthalmology, orthopedics, otorhinolaryngology, pediatrics, physical medicine and rehabilitation, plastic surgery, podiatry, and urology.

Also by incorporating OAC 5160-3-17.1 by reference, this rule also requires out-of-state NF-TBI providers to submit certain documentation to the Department of Medicaid, including preliminary evaluations, initial assessments, individual service plans, discharge plans, and monthly and quarterly reports, as well as materials necessary to set initial and subsequent contracted per diem rates.