

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

Agency Name

Division

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5160-3-17

Rule Number

AMENDMENT

TYPE of rule filing

Rule Title/Tag Line

Payment methodology for the provision of outlier services in nursing facilities (NFs).**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: **5165.153**

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 methodology used to pay for outlier services provided in nursing facilities.

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 paragraph (C), references to the franchise fee add-on are being deleted because the franchise fee add-on became obsolete when section 5111.243 of the Revised Code was repealed with the implementation of Am. Sub. HB 153 of the 129th General Assembly, and is no longer a component of the outlier per diem rate.
3. Paragraph references have been re-lettered and re-numbered as necessary due to the deletion of original paragraph (C)(1)(e), which contains the franchise fee add-on provision.
4. In re-numbered paragraph (C)(1)(e), the Administrative Code citation is being replaced with a Revised Code citation because the provision in that paragraph is set forth in the Revised Code.
5. Ohio Revised Code citations are 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. 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.
7. The Department's name is being updated from the Ohio Department of Job and Family Services (ODJFS) to the Ohio Department of Medicaid (ODM).

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).

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.

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? **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**

This rule requires a provider who chooses to provide outlier services to submit the following information to the Department of Medicaid:

A. In the initial year that a provider is approved as an outlier provider: projected annual cost report budget; current calendar year capital expenditure plan and detailed asset listing; and current calendar year staffing plan.

B. After the initial three months of operation as an outlier provider: a cost report for the initial three months of outlier service; and current individual service plans for the residents to be served in the period for which a rate is being established.

C. In each calendar year after the year of the initial contracted outlier rate: current individual service plans for the residents to be served in the period for which a rate is being established; actual year end cost report and current calendar year cost report budget; for-profit providers must submit a balance sheet, income statement, and statement of cash flows relating to the previous year's actual cost report; not-for-profit providers must submit a statement of financial position, statement of activities, and statement of cash flows relating to the previous calendar year's actual cost report; current calendar year capital expenditure plan and detailed asset listing; current calendar year staffing plan; and approved board minutes from the legal entity holding the provider agreement and all other related legal entities.