

Rule Summary and Fiscal Analysis

Part A - General Questions

Rule Number: 5160-3-17

Rule Type: Rescission

Rule Title/Tagline: Nursing facilities (NFs): payment methodology for the provision of outlier services.

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?** 6/26/2018
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?** 5164.02, 5165.153
5. **What statute(s) does the rule implement or amplify?** 5165.153
6. **What are the reasons for proposing the rule?**

Five-year review

This rule is no longer necessary because Ohio nursing facility providers have not furnished outlier services since 2008, and none are anticipated to do so in the foreseeable future.

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

This rule sets forth the payment methodology provisions for nursing facility outlier services.

8. **Does the rule incorporate material by reference? Yes**
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.**

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

This rule incorporates one or more references to another rule or rules of the Administrative Code. This question is not applicable to any incorporation by reference to another Administrative Code rule because such reference is exempt from compliance with RC 121.71 to 121.74 pursuant to RC 121.76(A)(3).

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

There is no impact on the agency's current budget. However, when this rule was effective, there was a minimal cost to nursing facility providers due to the reporting requirements in the rule.

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

In accordance with paragraph (B)(1) of this rule, in the initial year that a nursing facility is approved as an outlier provider, the provider must submit the projected cost report budget for the initial year of operation; the current calendar year capital expenditure plan, including detailed asset listing; and the current calendar year plan for basic staffing patterns that includes staff schedule by shift, number of staff in each position, staff position descriptions, base wage rates, and an explanation of contingencies that may require adjustments to the basic staffing patterns. The Department of Medicaid estimates it will take a nursing facility's accountant approximately 10 hours at an estimated rate of approximately \$26.00 an hour (total estimated cost: \$260.00) to prepare and submit a projected cost report budget and capital expenditure plan. The Department of Medicaid further estimates it will take a nursing facility's administrator approximately 2.5 hours at an estimated rate of approximately \$60.00 per hour (total estimated cost: \$150.00) to prepare and submit a plan for basic staffing patterns. The Department of Medicaid therefore estimates it will cost a nursing facility provider approximately \$410.00 to comply with all the requirements specified in paragraph (B) (1) of this rule.

In accordance with paragraph (B)(2) of this rule, after the initial 3 months of operation as an outlier provider, a nursing facility must submit a cost report for the initial 3 months of services, and current individual plans (IPs) for residents to be served in the period for which an outlier rate is being established. The Department of Medicaid estimates it will take a nursing facility's accountant approximately 15 hours at an estimated rate of approximately \$26.00 per hour (total estimated cost: \$390.00) to prepare and submit a cost report. The Department of Medicaid cannot estimate the cost for a provider to develop current IPs for residents who receive outlier services in the period for which an outlier rate is being established because the Department does not know how many residents would be receiving services during that period. However, the Department of Medicaid estimates it will take a nursing facility's staff approximately 1.5 hours at the rate of approximately \$20.00 per hour (total estimated cost: \$30.00) to develop and submit one IP.

In accordance with paragraph (B)(3) of this rule, in each calendar year subsequent to the year of the initial contracted outlier rate, a nursing facility provider must submit the following information:

1. Current IPs for residents to be served in the period for which a rate is being established.
2. Actual year end cost report, along with the current calendar year cost report budget.
3. For-profit providers must submit a balance sheet, income statement, and statement of cash flows relating to the previous calendar year's actual cost report.

4. Non-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.

5. Current calendar year capital expenditure plan, including a detailed asset listing.

6. Current calendar year plan for basic staffing patterns, including staff schedule by shift, number of staff in each position, position descriptions, base wage rates, and a description of contingencies that may require adjustments to the basic staffing patterns.

7. Approved board minutes from the legal entity holding the provider agreement, and all other related legal entities for the calendar year covered by the actual cost report. For item #1, the Department of Medicaid cannot estimate the cost for a provider to develop current IPs for residents who receive outlier services in the period for which an outlier rate is being established because the Department does not know how many residents would be receiving services during that period. However, the Department of Medicaid estimates it will take a nursing facility's staff approximately 1.5 hours at the rate of approximately \$20.00 per hour (total estimated cost: \$30.00) to develop and submit one IP.

For item #2, the Department of Medicaid estimates it will take a nursing facility's accountant approximately 20 hours at the rate of approximately \$26.00 per hour (total estimated cost: \$520.00) to prepare and submit a year-end cost report along with a current calendar year cost report budget.

For item #3, the Department of Medicaid estimates it will take a nursing facility's accountant approximately 5 hours at the rate of approximately \$26.00 per hour (total estimated cost: \$130.00) to prepare and submit a balance sheet, income statement, and statement of cash flows for a for-profit provider.

For item #4, the Department of Medicaid estimates it will take a nursing facility's accountant approximately 4 hours at the rate of approximately \$26.00 per hour (total estimated cost: \$104.00) to prepare and submit a statement of financial position, statement of activities, and statement of cash flows for a non-profit provider.

For item #5, the Department of Medicaid estimates it will take a nursing facility's accountant approximately 2 hours at the rate of approximately \$26.00 per hour (total estimated cost: \$52.00) to prepare and submit a current calendar year capital expenditure plan that includes a detailed asset listing.

For item #6, the Department of Medicaid estimates it will take a nursing facility's administrator approximately 2.5 hours at the rate of approximately \$60.00 per hour (total estimated cost: \$120.00) to prepare and submit a current calendar year plan for basic staffing patterns.

For item #7, the Department of Medicaid estimates it will take a nursing facility's staff approximately 2 hours at the rate of approximately \$13.00 per hour (total estimated cost: \$26.00) to locate and submit approved board minutes from the legal entity holding the provider agreement, and all other related legal entities for the calendar year covered by the actual cost report.

However, there are no estimated costs of compliance to nursing facility providers with this rule filing because this rule is being proposed for rescission.

13. **Does the rule increase local government costs? (If yes, you must complete an RSFA Part B).** No
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 (B) of this rule, a provider who chooses to provide outlier services must submit the following information to the Department of Medicaid:

1. 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.

2. 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 plans (IPs) for the residents to be served in the period for which a rate is being established.

3. In each calendar year after the year of the initial contracted outlier rate, a nursing facility provider must furnish the following information:

- a. Current IPs for the residents to be served in the period for which a rate is being established

- b. Actual year end cost report and current calendar year cost report budget.
- c. For-profit providers must submit a balance sheet, income statement, and statement of cash flows relating to the previous year's actual cost report.
- d. Non-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.
- e. Current calendar year capital expenditure plan with detailed asset listing.
- f. Current calendar year basic staffing plan.
- g. Approved board minutes from the legal entity holding the provider agreement and all other related legal entities for the calendar year covered by the actual cost report.