

Rule Summary and Fiscal Analysis

Part A - General Questions

Rule Number: 5160-3-58

Rule Type: Amendment

Rule Title/Tagline: Nursing facilities (NFs): quality indicators and per medicaid day quality payment rate.

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? Yes
 - A. If so, what is the bill number, General Assembly and Sponsor? HB 49 - 132 - Smith
3. What statute is this rule being promulgated under? 119.03
4. What statute(s) grant rule writing authority? 5165.02
5. What statute(s) does the rule implement or amplify? 5165.25
6. What are the reasons for proposing the rule?

Five year review

Implement provisions of Section 5165.25 of the Revised Code adopted under Amended Substitute House Bill 49 of the 132nd General Assembly relating to the administration of the Medicaid program.

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

This rule sets forth provisions regarding the Ohio Department of Medicaid's quality program for nursing facilities.

The changes to this rule are:

1. The rule title is being modified to be consistent with the titles of other nursing facility rules in Chapter 5160-3 of the Administrative Code.
2. In paragraphs (A) and (C), language is being modified because there are more than five quality indicators.
3. In paragraph (B)(2), language regarding the measurement period is being modified in accordance with provisions adopted under Amended Substitute House Bill 49 of the 132nd General Assembly.
4. In paragraph (C), language is being added regarding the points that nursing facilities may earn for rates for short-stay residents and long-stay residents for the pressure ulcer quality indicator and the antipsychotic medication quality indicator. This language is being added in accordance with provisions adopted under Amended Substitute House Bill 49 of the 132nd General Assembly.
5. In paragraph (C)(1), language is being added to clarify what data is being used for the determination of the pressure ulcer rates.
6. In paragraphs (C)(1) and (C)(2), the scoring percentile for pressure ulcer rates and antipsychotic medication use rates is being changed from no more than the 25th percentile to no more than the 40th percentile, in accordance with provisions adopted under Amended Substitute House Bill 49 of the 132nd General Assembly.
7. Also in paragraphs (C)(1) and (C)(2), provisions regarding the time period for the statistical data to be included in the calculation of the pressure ulcer rate and antipsychotic medication use rate are being removed because the provisions were only necessary for the first year the rates were calculated.
8. In paragraph (C)(2), the website address where the Department of Medicaid had obtained antipsychotic medication use rates is being removed to allow the Department to use an alternative data source.

9. Also in paragraph (C)(2), language is being added in accordance with provisions adopted under Amended Substitute House Bill 49 of the 132nd General Assembly so that the antipsychotic medication use rate shall not include short-stay nursing facility residents who newly received an antipsychotic medication in conjunction with hospice care, or long-stay nursing facility residents who received an antipsychotic medication in conjunction with hospice care.

10. In paragraph (C)(3), the avoidable inpatient hospital admissions quality indicator is being replaced with the unplanned weight loss quality indicator in accordance with provisions adopted under Amended Substitute House Bill 49 of the 132nd General Assembly. In addition, in paragraph (E)(1), a reference to the avoidable inpatient hospital admissions quality indicator is being replaced with a reference to the unplanned weight loss quality indicator.

11. In paragraph (D), language is being modified so that religious non-medical health care institutions (RNHCIs) shall receive 1 point for each of the pressure ulcer, antipsychotic medication, and unplanned weight loss quality indicators. This change is being made in accordance with the methodology established by the Ohio Department of Medicaid.

12. Phrasing and grammatical changes are being made to improve clarity and readability.

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 CMS quality measure rates for nursing facilities that are found on the CMS website. This question is not applicable to any incorporation by reference to CMS quality measure rates for nursing facilities found on the CMS website because such reference is exempt from compliance with ORC 121.71 to 121.74 pursuant to ORC 121.75(E). CMS quality measure rates for nursing facilities are generally available to the public on the CMS website at <https://data.medicare.gov/Nursing-Home-Compare/Quality-Measures/djen-97ju>.

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

The changes in this proposed rule are estimated to have no fiscal impact on the Ohio Department of Medicaid in the current biennium or future years because the methodology for calculating quality incentive payments is remaining the same.

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

There are no estimated costs of compliance with this rule for nursing facility providers.

- 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? No**
- 16. Does this rule have an adverse impact on business? No**
- 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**

There is no penalty or sanction if a nursing facility chooses not to participate in the quality program. There is, however, a benefit if they do. The benefit is that the nursing facility can earn extra money by going over and above what is required by law in terms of quality of care.

C. Does this rule require specific expenditures or the report of information as a condition of compliance? No

Nursing facilities choose to indicate in Section 8 of the NF annual cost report whether or not the Preferences for Everyday Living Inventory (PELI) was used for all residents.