

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

Agency Name

Division

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5160-3-58

Rule Number

NEW

TYPE of rule filing

Rule Title/Tag Line

Nursing facilities (NFs): quality indicators and per medicaid day quality payment rate.**RULE SUMMARY**1. Is the rule being filed for five year review (FYR)? **No**2. Are you proposing this rule as a result of recent legislation? **Yes**Bill Number: **HB64**General Assembly: **131**Sponsor: **Smith**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: **5165.02**5. Statute(s) the rule, as filed, amplifies or implements: **5165.25**

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

This rule is being proposed for adoption to implement provisions of Revised Code 5165.25 adopted under Am. Sub. H.B. 64, 131st General Assembly, relating to the administration of the Medicaid program.

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 provisions regarding the Ohio Department of Medicaid's quality program for nursing facilities.

The rule describes how the Ohio Department of Medicaid determines the per Medicaid day quality payment rate based on the number of quality points a nursing facility earns for meeting five different quality indicators specified in the rule. The rule contains sections that describe the measurement period used to calculate the per Medicaid day quality payment rate, quality indicator criteria, the authority for the Department of Medicaid to establish criteria for the methodology used to calculate the per Medicaid day quality payment rate for religious non-medical health care institutions (RNHCIs), reasons for which quality points shall not be awarded, methodology for calculation of the per Medicaid day quality payment rate, and appeals.

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 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 contains one or more references to the Preferences for Everyday Living Inventory (PELI) for nursing home residents as developed by the Polisher Research Institute. This question is not applicable to any incorporation by reference to the PELI for nursing home residents because such reference is exempt from compliance with ORC 121.71 to 121.74 pursuant to ORC 121.75(E). The PELI for nursing home residents may be found on the internet at <https://www.abramsoncenter.org/research/applications/assessment-instruments/>.

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:

(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 increase expenditures.

\$30 million

For the nursing facilities that choose to participate in the quality program, the Department of Medicaid will award \$30 million.

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:

If a nursing facility chooses to participate in the quality program the facility may have additional expenditures if it is not already providing the quality of care this rule hopes to inspire nursing facilities to provide.

The Department of Medicaid cannot estimate the costs to providers because the Department does not know the specific patient care and business practices of any particular facility.

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? **No**

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**

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**

There is no compliance requirement in this rule, therefore there are no required expenditures or report of information. If a nursing facility chooses to participate, the facility may have additional expenditures if it is not already providing the quality of care this rule hopes to inspire nursing facilities to provide. The

Department of Medicaid will be using information already reported to it and to CMS for other purposes. The only addition is if the nursing facility uses the Preferences for Everyday Living Inventory, it will need to tell the Department of Medicaid it does so by checking a box on the Medicaid nursing facility annual cost report it already submits to the Department of Medicaid pursuant to section 5165.10 of the Revised Code and rule 5160-3-20 of the Administrative Code.

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.

If counties and municipal corporations that operate nursing facilities choose to participate in the quality program they may have additional expenditures if the facilities are not already providing the quality of care this rule hopes to inspire nursing facilities to provide.

The Department of Medicaid cannot estimate the costs to providers because the Department does not know the specific patient care and business practices of any particular facility.

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 of Medicaid cannot estimate the costs to providers regarding

participation in the quality program because the Department does not know the specific patient care and business practices of any particular facility.

(a) Personnel Costs

The Department of Medicaid cannot estimate the costs to nursing facility providers regarding personnel costs because the Department does not know the specific patient care and business practices of any particular facility.

(b) New Equipment or Other Capital Costs

The Department of Medicaid 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

The Department of Medicaid cannot estimate the costs to nursing facility providers regarding operating costs because the Department does not know the specific patient care and business practices of any particular facility.

(d) Any Indirect Central Service Costs

The Department of Medicaid 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

The Department of Medicaid 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 Department of Medicaid is unable to provide an explanation of the ability of nursing facilities operated by counties and municipal corporations to pay for costs incurred as a result of the adoption of this rule because the Department does not have this level of detailed information about the finances of these nursing facilities.

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.