

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

5160:1-3-04.3

Rule Number

NEW

TYPE of rule filing

Rule Title/Tag Line

Medicaid: determining patient liability.**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: **HB59**General Assembly: **130**Sponsor: **Amstutz**3. Statute prescribing the procedure in accordance with the agency is required to adopt the rule: **111.15**4. Statute(s) authorizing agency to adopt the rule: **5160.02, 5163.02**5. Statute(s) the rule, as filed, amplifies or implements: **5163.33**

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

This new rule is replacing rescinded rule 5160:1-3-24, which is being rescinded as part of the Department of Medicaid's rule renumbering. The content is being amended to implement provisions of RC 5163.33, adopted under Am. Sub. H.B. 59, 130th G.A. and Am. Sub. H.B. 64, 131st G.A., relating to the administration of the Medicaid program, and to change policy relating to the calculation of the Medicaid patient liability.

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 policies for determining Medicaid patient liability. Differences between this rule and the rule it is replacing are: to increase the personal needs allowances in accordance with section 5163.33 of the Revised Code, to change the way cost of care is deducted from the patient liability in certain circumstances, and to expand the group of veterans and veterans' widows who have a portion of their veterans administration pension excluded as income in patient liability calculations. Other changes were made for clarity, correctness and consistency with other rules, and to update the agency name and administrative code rule numbers.

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 another rule or rules of 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 dated references to the U.S. Code. This question is not applicable to any dated incorporation by reference to the U.S. Code because such reference is exempt from compliance with ORC 121.71 to 121.74 in accordance with ORC 121.75(A).

This rule incorporates one or more dated references to a federal act or acts. This question is not applicable to any dated incorporation by reference to a federal act because such reference is exempt from compliance with ORC 121.71 to 121.74 in accordance with ORC 121.75(C).

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.

\$4,612,500

For the increase in personal needs allowance for individuals institutionalized in a medical institution or nursing facility, the estimate of \$1.8 million was arrived at by taking the number of individuals currently having a NF patient liability and multiplying that number first by the dollar amount of the change in the personal needs allowance as appropriate for each calendar year, then by the number of affected months in the biennium, and lastly by the appropriate FMAP percentage to arrive at the state's cost.

For the increase in personal needs allowance for individuals who are residents of an intermediate care facility for individuals with intellectual disabilities (ICF-IID), the estimate of \$1,312,500 was arrived at by a determination made by the Ohio Department of Developmental Disabilities (DODD). Payments to the ICF-IIDs are disbursed out of the DODD budget.

For the changes to deductions in certain veterans' patient liability calculations, the estimate of \$1.5 million was arrived at by taking the number of affected individuals and multiplying that number first by the estimated dollar amount of the change to their income exclusion, then by the number of affected months in the biennium, and lastly by the appropriate FMAP percentage to arrive at the state's cost.

14. Identify the appropriation (by line item etc.) that authorizes each expenditure necessitated by the proposed rule:

651525

653407

653606

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:

Not applicable.

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? **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**

Paragraph (F) requires that nursing facilities pay back patient liability overpayments; paragraphs (G) and (H) require that HCBS waiver agencies and PACE sites, respectively, must notify the individual as to whom he or she must make the patient liability payment.

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	No

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.

The Ohio Department of Medicaid (ODM) supplies funding to Ohio's 88 counties through the Ohio Department of Job and Family Services, Bureau of County Finance and Technical Assistance. This funding is intended to properly supply counties with enough funding to conduct eligibility determinations and casework for the Medicaid Program. State funds are supplied for matching through a mechanism called the Income Maintenance (IM) Allocation. As expenditures are charged, the federal portion of these expenditures is also supplied to the counties. Each county operates daily at different work levels and funds the work done locally differently. Historically, counties have not reported spending in excess of allocation and it is not expected that this change to policy would greatly change that dynamic.

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 anticipates that counties, specifically County Departments of Job and Family Services, will incur training costs. However, each county operates daily at different work levels and funds the work done locally differently. Historically, counties have not reported spending in excess of allocation and it is not expected that this change to policy would greatly change that dynamic.

(a) Personnel Costs

There will be an increase in training costs as a result of the new Medicaid eligibility rules. However, each county operates daily at different work levels and funds the work done locally differently. Historically, counties have not reported spending in excess of allocation and it is not expected that this change to policy would greatly change that dynamic.

(b) New Equipment or Other Capital Costs

The Department of Medicaid does not expect any changes in capital costs.

(c) Operating Costs

Counties may incur increased operating costs. However, each county operates daily at different work levels and funds the work done locally differently. Historically, counties have not reported spending in excess of allocation and it is not expected that this change to policy would greatly change that dynamic.

(d) Any Indirect Central Service Costs

Counties may incur increased indirect central service costs. However, each county operates daily at different work levels and funds the work done locally differently. Historically, counties have not reported spending in excess of allocation and it is not expected that this change to policy would greatly change that dynamic.

(e) Other Costs

The Department of Medicaid does not know whether counties will incur increased additional costs. There will be an increase in training costs as a result of the new Medicaid eligibility rules. However, each county operates daily at different work levels and funds the work done locally differently. Historically, counties have not reported spending in excess of allocation and

it is not expected that this change to policy would greatly change that dynamic.

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 has determined no new requirements are being imposed by the proposed rule.

7. Please provide a statement on the proposed rule's impact on economic development.

The Department of Medicaid does not expect the proposed rules to have an impact on economic development.