

**FEDERAL MEDICAID NOTICE AND PUBLIC HEARING NOTICE
OHIO DEPARTMENT OF JOB AND FAMILY SERVICES**

DATE: August 15, 2011

TIME: 10:00 a.m.

LOCATION: Room 2925, Rhodes State Office Tower
30 East Broad Street, Columbus, Ohio 43215

Pursuant to Sections 5111.0112, 5111.02, 5111.16, 5111.162, 5111.17, 5111.172, and 5111.98 and Chapter 119. of the Ohio Revised Code (ORC), the director of the Ohio Department of Job and Family Services (ODJFS) gives notice of the department's intent to consider the adoption, amendment, or rescission of the rules identified below and of a public hearing thereon.

Rule 5101:3-1-09, "Medicaid Co-Payment Program [Except for Services Provided Through a Medicaid Managed Health Care Program]" is being rescinded to implement provisions of ORC section 5111.172, as amended by Am. Sub. H.B. 153, 129th General Assembly (G.A.), related to the administration of the Medicaid pharmacy benefit to support carving the pharmacy benefit back in the Medicaid managed care program, and five year review. This rule sets forth the requirements for providers and consumers for co-payments to Medicaid-covered services. It is being replaced by rule 5101:3-1-09, "Co-payments."

Rule 5101:3-1-09, "Co-payments," is being proposed for adoption to implement provisions of ORC section 5111.172, as amended by Am. Sub. H.B. 153, 129th G.A., related to the administration of the Medicaid pharmacy benefit to support carving the pharmacy benefit back in the Medicaid managed care program, and five year review. This rule sets forth the requirements for providers and consumers for co-payments to Medicaid-covered services. Differences between this rule and former rule 5101:3-1-09 include the removal of language related to the previous pharmacy carve-out, moving the exception for managed care plans from the title to the rule body, and restructuring the rule to provide additional clarity to providers and consumers.

Rule 5101:3-9-02, entitled "Pharmacy Services: Medical Supplies and Durable Medical Equipment," is being proposed for amendment to implement provisions of ORC section 5111.172 as amended by Am. Sub. H.B. 153, 129th G.A., relating to the administration of the Medicaid pharmacy benefit. This rule sets forth coverage policy for pharmacies to bill medical equipment and supplies. This change is being made to support carving the pharmacy benefit back into the Medicaid managed care program. Changes to the rule delete a historical date and remove a reference to the managed care program that differentiated billing between managed care and fee-for-service consumers. Since the billing instructions no longer apply to the managed care program, the differentiation is not necessary.

Rule 5101:3-9-12, entitled "Ohio department of job and family services list of drugs covered without prior authorization," is being proposed for amendment to update policy relating to administration of the Medicaid pharmacy benefit. This rule sets forth the list of drugs covered without prior authorization by the Ohio Medicaid program. Changes in the appendix were made

for routine maintenance of the drug list, and to include changes in the Preferred Drug List (PDL) including adopting recommendations from the ODJFS Pharmacy and Therapeutics Committee. No changes are proposed to the rule body. Changes were made in the appendix to incorporate additions and deletions of drugs covered without prior authorization. These include changes to the PDL in accordance with the supplemental rebate program. Drugs previously included on the PDL without prior authorization that will now require prior authorization include reserpine in drug class A4B; all angiotensin receptor blockers (ARB) and ARB combination drugs in classes A4F, A4H, A4I, and A4V; Dynacirc CR (A9A); all dipeptidyl peptidase-4 (DPP-4) and DPP-4 combination drugs in classes C4F and C4J; Symlin (C4H); Byetta and Victoza (C4I); Prevpac and Pylera (D4F); Prevacid Solutab (D4J); Dipentum and Pentasa (D6F); Activella, Climara, Climara Pro, Divigel, Elestrin, Estraderm, estradiol-norethindrone, Estrasorb, Evamist, Femtrace, and Vivelle-Dot (G1A); Angeliq (G1D); buprenorphine, Demerol, Dilaudid, hydromorphone injection, Kadian, meperidine injection, oxycodone ER, OxyContin, Suboxone and Subutex (H3A); Amerge and Frova (H3F); Lyrica (H4B); Requip XL and Stalevo (H6A); Effexor XR and Venlafaxine ER tablet (H7C); Razadyne and Razadyne ER (J1B); Azelex and Ziana (L5H); Differin (L9B); Lescol and Lescol XL (M4D); Caduet (M4I); Actonel (P4L); Rowasa and SFRowasa (Q3E); Estrace, Femring and Vagifem (Q4K); Loprox shampoo, Naftin, Oxistat and Vusion (Q5F); Lidoderm (Q5H); Lumigan, Travatan Z and Xalatan (Q6G); Acular (Q6P); Alocril and Alomide (Q6U); Nasonex (Q7P); Coly-Mycin-S (Q8W); Avodart (Q9B); Enablex (R1I); Colcrys (S2A); and Cedax (W1Y). Other changes include removal of drugs that are no longer marketed or that have been identified by the federal Centers for Medicare and Medicaid Services as non-payable, addition of drugs that are new to the market, and addition of drugs that have been added to the PDL and will no longer require prior authorization.

Rule 5101:3-26-03, entitled "Managed health care programs: covered services", is being proposed for amendment to implement provisions of ORC section 5111.172, as amended by Am. Sub. H.B. 153, 129th G.A., related to the administration of the Medicaid pharmacy benefit, and for five year review. The rule sets forth the services that managed care plans (MCPs) are required to provide to Medicaid managed care consumers. The changes to the rule support carving the pharmacy benefit back in the Medicaid managed care program by removing the language that excludes the reimbursement of the pharmacy benefit. Effective October 1, 2011, MCPs will again be responsible for the payment and provision of the pharmacy benefit. The changes to the rule also add clarifying language regarding the self-referral of MCP members to community behavioral health services and update the name of the Ohio Department of Developmental Disabilities. The department estimates carving the pharmacy benefit back in the Medicaid Managed Care Program will result in a net increase in expenditures of \$97 million in State Fiscal Year (SFY) 2012 and \$17 million in SFY 2013. This increase is due to the upfront capitation payments made by ODJFS versus provider payments made for prescribed drugs and certain medical supplies. Long-term savings resulting from improved care coordination are not included in this estimate.

Rule 5101:3-26-07 entitled "Managed health care programs: annual external quality review survey" is being proposed for rescission to implement the administration of the Medicaid managed care annual external quality review requirements. This rule sets forth the Department's and contracted managed care plan (MCP) responsibilities regarding the federally-required annual external quality review survey. This rule is being replaced by rule 5101:3-26-07.

Rule 5101:3-26-07 entitled "Managed health care programs: annual external quality review survey" is being proposed for adoption to update policy related to the administration of the Medicaid managed care program. This rule sets forth the Department's and contracted MCP responsibilities regarding the federally-required annual external quality review survey. The difference between this rule and the rule it is replacing is that the new rule deletes specific language regarding specific external quality review activities and corrective action plans. Additionally, the new rule removes duplication as the language on corrective action plans exists within OAC rule 5101:3-26-10. The intent of this rule and the rule it replaces remains the same.

Rule 5101:3-26-12, entitled "Managed health care programs: member co-payments", is being amended to implement provisions of ORC section 5111.172, as amended by Am. Sub. H.B. 153, 129th G.A., related to the administration of the Medicaid managed care program and for five year rule review. The rule sets forth provisions for MCP member co-payments. The changes to the rule add language allowing MCPs to impose pharmacy co-payments in accordance with Medicaid fee-for-service co-payment requirements to support carving the benefits back into the list of services provided by Medicaid managed care plans.

A copy of the proposed rules is available, without charge, to any person affected by the rules, at the address listed below. The rules are also available on the internet at <http://www.registerofohio.state.oh.us/>. A public hearing on the proposed rules will be held at the date, time, and location listed at the top of this notice. Either written or oral testimony will be taken at the public hearing. Additionally, written comments submitted or postmarked no later than the date of the public hearing will be treated as testimony.

Requests for a copy of the proposed rules, or comments on the rules, should be submitted by mail to the Ohio Department of Job and Family Services, Office of Legal and Acquisition Services, 30 East Broad Street, 31st Floor, Columbus, Ohio 43215-3414, by fax at (614) 752-8298, or by e-mail at rules@jfs.ohio.gov.