

**LEGAL NOTICE****STATE OF OHIO  
OHIO DEPARTMENT OF JOB AND FAMILY SERVICES  
COLUMBUS, OHIO**

PURSUANT TO SECTION 5111.02 AND CHAPTER 119. OF THE REVISED CODE AND SECTION 1902 (a)(13)(A) OF THE SOCIAL SECURITY ACT, THE DIRECTOR OF THE DEPARTMENT OF JOB AND FAMILY SERVICES GIVES NOTICE OF THE DEPARTMENT'S INTENT TO AMEND RULES 5101:3-3-17.3, 5101:3-3-25, 5101:3-3-54.1, 5101:3-3-54.5, AND 5101:3-3-87.1 ON A PROPOSED PERMANENT BASIS, AND OF A PUBLIC HEARING UPON THE PROPOSED AMENDMENTS.

The rules referenced in this public notice have been reviewed pursuant to Section 119.032 of the Revised Code, which requires the review of all state agency rules every five years. The intent of the review is to determine whether a rule should be continued without amendment, should be amended, or should be rescinded, taking into consideration the rule's purpose and scope. In addition, the review ensures the rules are clear and concise as written, program requirements are accurate and up-to-date, unnecessary paperwork is eliminated and when possible, local agencies are given more flexibility. No outlier provider ever received the simple average rate because no outlier provider ever failed to provide the appropriate documentation. It is anticipated that outlier providers will continue to provide the required documentation and therefore the rules will not result in an increase or decrease in Medicaid expenditures. If the calculated statewide mean rate per diem is applied to a outlier provider, the outlier provider's rate would be lower resulting in a decrease in Medicaid expenditures. Until such time as an outlier provider's actions result in the application of these rules, the fiscal impact cannot be determined.

Rule 5101:3-3-17.3 entitled Out-of-state placement for individuals with traumatic brain injury (TBI) sets forth the TBI level of care criteria, the requirements for out-of-state facilities, the prior authorization process, and the reimbursement methodology for out-of-state TBI services. This rule is being proposed for permanent amendment to setup the *LOC* acronym for level of care in paragraph (A)(1).

Rule 5101:3-3-25 entitled Payment methodology for the provision of outlier services sets forth the calculation of the initial contract rate for an outlier facility and specifies the methodology for calculating the prospective rate. This rule is being proposed for permanent amendment to replace *simple average rate* with *calculated statewide mean rate per diem* in paragraph (D)(2) in order to establish the contracted rates subsequent to the initial rate year for providers who fail to submit all required information as set forth in paragraph (D)(3).

Rule 5101:3-3-54.1 entitled Outlier long-term care services for individuals with severe maladaptive behaviors due to traumatic brain injury (NF-TBI services) sets forth the TBI level of care criteria, the facility requirements to provide services, and the prior authorization process. This rule is being proposed for permanent amendment to add language regarding movement of beds between the outlier and non-outlier unit of a facility in paragraph (D)(4). This rule is also being proposed for permanent amendment to delete paragraphs (H) and (I) regarding the initial contracted rate and subsequent contracted rates after the initial rate year and refer to OAC rule 5101:3-3-25 that contains the same payment methodology concepts regarding the initial contracted rate and subsequent contracted rates after the initial rate year.

Rule 5101:3-3-54.5 entitled Pediatric outlier care in nursing facilities (NF-PED services) sets forth the criteria for NF-PED level of care, the requirements of the facility to provide services, and the prior authorization process. This rule is being proposed for permanent amendment to add language regarding movement of beds between the outlier and non-outlier unit of a facility in paragraph (D)(3). This rule is also being proposed for permanent amendment to delete paragraphs (H) and (I) regarding the initial contracted rate and subsequent contracted rates after the initial rate year and refer to OAC rule 5101:3-3-25 that contains the same payment methodology concepts regarding the

initial contracted rate and subsequent contracted rates after the initial rate year.

Rule 5101:3-3-87.1 entitled Intermediate care facility for the mentally retarded (ICF-MR) outlier services for behavioral redirection and medical monitoring (BRMM) sets forth the criteria for the ICF-MR-BRMM level of care, the requirements of the facility to provide services, and the prior authorization process. This rule is being proposed for permanent amendment to add language regarding movement of beds between the outlier and non-outlier unit of a facility in paragraph (D)(3). This rule is also being proposed for permanent amendment to delete paragraphs (H) and (I) regarding the initial contracted rate and subsequent contracted rates after the initial rate year and refer to OAC rule 5101:3-3-25 that contains the same payment methodology concepts regarding the initial contracted rate and subsequent contracted rates after the initial rate year.

A copy of the proposed rules is available for review in each County Department of Job and Family Services. A copy of the rules is also available, without charge, at the address listed below and on the internet at <http://jfs.ohio.gov/ols/pubhearings/#/ohpp>.

A public hearing on the proposed rules will be held on **May 17, 2004 at 10:00 a.m.** in room **1823, 30 East Broad Street, Columbus, Ohio**. Either written or verbal testimony on the proposed rules will be taken at the public hearing. Additionally, written comments submitted or postmarked no later than **May 17, 2004** will be treated as testimony.

Requests for a copy of the proposed rules or the written comments on the proposed rules should be submitted by mail to the **Office of Legal Services, Ohio Department of Job and Family Services (ODJFS), 30 East Broad Street, 31st Floor, Columbus, Ohio 43215-3414**, by fax at (614) 752-8298, or by e-mail at [legal@ODJFS.state.oh.us](mailto:legal@ODJFS.state.oh.us). Written comments received by ODJFS may be reviewed at the address listed above.