

PUBLIC HEARING NOTICE
OHIO DEPARTMENT OF JOB AND FAMILY SERVICES

DATE: November 21, 2005
TIME: 10:00 a.m.
LOCATION: Room 2925, Rhodes State Office Tower
30 East Broad St., Columbus, Ohio 43215

Pursuant to sections 3721.511, 3721.58, 5111.02, 5111.258, and 5112.39 and Chapter 119. of the Ohio Revised Code, the director of the Ohio Department of Job and Family Services gives notice of the Department's intent to consider the rescission and adoption of the rules as identified below and of a public hearing thereon.

The following rules are being proposed for rescission pursuant to Section 119.032 of the Revised Code.

Rule 5101:3-3-49.2 entitled Identification of nursing facility (NF) and hospital beds subject to the franchise permit fee (FPF) is being proposed for rescission as a result of provisions in Am. Sub. H.B. 66 relating to the administration of the Medicaid program. This rule identifies NF and hospital beds subject to, and those exempt from, the FPF assessment. It is being replaced by new rule 5101:3-3-30.

Rule 5101:3-3-49.3 entitled Calculation, billing, collection and appeal process for the franchise permit fee (FPF) is being proposed for rescission as a result of provisions in Am. Sub. H.B. 66 relating to the administration of the Medicaid program. This rule sets forth the FPF calculation formula, payment process, and calculation appeal process for NFs and hospitals. It is being replaced by new rule 5101:3-3-30.1.

Rule 5101:3-3-49.7 entitled Method of distribution of franchise permit fee (FPF) proceeds is being proposed for rescission as a result of provisions in Am. Sub. H.B. 66 relating to the administration of the Medicaid program. This rule sets forth the distribution method for FPF proceeds from NFs and hospitals. It is being replaced by new rule 5101:3-3-30.3.

Rule 5101:3-3-49.8 entitled Enforcement of the franchise permit fee (FPF) program for nursing facilities (NFs) and hospitals is being proposed for rescission as a result of provisions in Am. Sub. H.B. 66 relating to the administration of the Medicaid program. This rule sets forth procedures for the enforcement of the FPF program for NFs and hospitals. It is being replaced by new rule 5101:3-3-30.2

Rule 5101:3-3-49.9 entitled Procedure for terminating the franchise permit fee (FPF) program for nursing facilities (NFs) and hospitals is being proposed for rescission as a result of provisions in Am. Sub. H.B. 66 relating to the administration of the Medicaid program. This rule sets forth the termination procedure for terminating the FPF program for NFs and hospitals if the Centers for Medicare and Medicaid Services (CMS) determines the FPF is an impermissible health care related tax. It is being replaced by new rule 5101:3-3-30.4.

Rule 5101:3-3-82.2 entitled The intermediate care facility for the mentally retarded (ICF-MR) franchise permit fee (FPF) is being proposed for rescission as a result of provisions in Am. Sub. H.B. 66 relating to the administration of the Medicaid program. This rule sets forth the meaning of ICF-MR for FPF purposes, and explains how proceeds from the assessment are distributed. It is being replaced by new rules 5101:3-3-30 and 5101:3-3-30.3.

Rule 5101:3-3-82.3 entitled Calculation, billing, collection and appeal process for the franchise permit fee (FPF) is being proposed for rescission as a result of provisions in Am. Sub. H.B. 66 relating to the administration of the Medicaid program. This rule sets forth the calculation method and the billing, collection, and calculation appeal processes for the FPF for ICFs-MR. It is being replaced by new rule 5101:3-3-30.1.

Rule 5101:3-3-82.6 entitled Enforcement of the franchise permit fee (FPF) program for intermediate care facilities for the mentally retarded (ICFs-MR) is being proposed for rescission as a result of provisions in Am. Sub. H.B. 66 relating to the administration of the Medicaid program. This rule sets forth the provisions for enforcement of the FPF program for ICFs-MR. It is being replaced by new rule 5101:3-3-30.2.

Rule 5101:3-3-82.7 entitled Procedure for terminating the franchise permit fee (FPF) program for intermediate care facilities for the mentally retarded (ICFs-MR) is being proposed for rescission as a result of provisions in Am. Sub. H.B. 66 relating to the administration of the Medicaid program. This rule sets forth the procedure for terminating the FPF program for ICFs-MR if CMS determines the FPF is an impermissible health care related tax. It is being replaced by new rule 5101:3-3-30.4.

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) is being proposed for rescission as a result of provisions in Am. Sub. H.B. 66 relating to the administration of the Medicaid program. This rule sets forth the eligibility requirements and prior authorization process for participation in the BRMM outlier program. This rule is being replaced by new rule 5101:3-3-17.4.

The following rules are being proposed for adoption pursuant to Section 119.032 of the Revised Code.

Rule 5101:3-3-17.4 entitled Intermediate care facility for the mentally retarded/developmentally disabled (ICF-MR/DD) outlier services for behavioral redirection and medical monitoring (BRMM) is being proposed for adoption to implement provisions in Am. Sub. H.B. 66 relating to the administration of the Medicaid program. This rule sets forth the eligibility requirements and prior authorization process for participation in the BRMM outlier program. It replaces former rule 5101:3-3-87.1.

Rule 5101:3-3-30 entitled Beds and facilities subject to the franchise permit fee (FPF) – for nursing facilities (NFs), nursing homes (NHs), hospitals, and intermediate care facilities for the mentally retarded/developmentally disabled (ICFs-MR/DD) is being proposed for adoption to implement provisions in Am. Sub. H.B. 66 relating to the administration of the Medicaid

program. This rule identifies beds and facilities subject to, and those exempt from, the FPF for both NF and ICF-MR/DD provider types. It replaces former rule 5101:3-3-49.2 and part of former rule 5101:3-3-82.2.

Rule 5101:3-3-30.1 entitled Calculation, billing, payment remittance, and appeal process for the franchise permit fee (FPF) – for nursing facilities (NFs), nursing homes (NHs), hospitals, and intermediate care facilities for the mentally retarded/developmentally disabled (ICFs-MR/DD) is being proposed for adoption to implement provisions in Am. Sub. H.B. 66 relating to the administration of the Medicaid program. This rule sets forth the FPF calculation method, billing cycle, payment remittance procedure, and calculation appeal process for both NF and ICF-MR/DD provider types. It replaces former rules 5101:3-3-49.3 and 5101:3-3-82.3.

Rule 5101:3-3-30.2 entitled Enforcement of the franchise permit fee (FPF) program – for nursing facilities (NFs), nursing homes (NHs), hospitals, and intermediate care facilities for the mentally retarded/developmentally disabled (ICFs-MR/DD) is being proposed for adoption to implement provisions in Am. Sub. H.B. 66 relating to the administration of the Medicaid program. This rule sets forth the procedures for enforcement of the FPF program for both NF and ICF-MR/DD provider types. It replaces former rules 5101:3-3-49.8 and 5101:3-3-82.6.

Rule 5101:3-3-30.3 entitled Distribution method for franchise permit fee (FPF) proceeds from nursing facilities (NFs), nursing homes (NHs), hospitals, and intermediate care facilities for the mentally retarded/developmentally disabled (ICFs-MR/DD) is being proposed for adoption to implement provisions in Am. Sub. H.B. 66 relating to the administration of the Medicaid program. This rule sets forth the distribution method for FPF proceeds from both NF and ICF-MR/DD provider types. It replaces former rule 5101:3-3-49.7 and part of former rule 5101:3-3-82.2.

Rule 5101:3-3-30.4 entitled Procedure for terminating the franchise permit fee (FPF) assessment – for nursing facilities (NFs), nursing homes (NHs), hospitals, and intermediate care facilities for the mentally retarded/developmentally disabled (ICFs-MR/DD) is being proposed for adoption to implement provisions in Am. Sub. H.B. 66 relating to the administration of the Medicaid program. This rule sets forth the procedure for terminating the FPF program for both NF and ICF-MR/DD provider types if the Centers for Medicare and Medicaid Services (CMS) determines that the FPF is an impermissible health care related tax. It replaces former rules 5101:3-3-49.9 and 5101:3-3-82.7

Copies of the proposed rules are 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 copies 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 Services, 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.