

PUBLIC HEARING NOTICE
OHIO DEPARTMENT OF JOB AND FAMILY SERVICES

DATE: December 28, 2005
TIME: 10:00 a.m.
LOCATION: Room 3110B, Rhodes State Office Tower
30 East Broad Street, Columbus, Ohio 43215

Pursuant to section 5111.02 and Chapter 119. of the Revised Code, the director of the Ohio Department of Job and Family Services gives notice of the Department's intent to consider the amendment of the rules as identified below and of a public hearing thereon.

These rules are being proposed for permanent adoption, amendment, or rescission pursuant to Am. Sub. H.B. 66 of the 126th General Assembly, and Section 119.032 of the Revised Code, which requires the review of all state agency rules within a five year period. The following changes to the Medicaid long term care facility reimbursement system emerged as a result of Am. Sub. House Bill 66 of the 126th General Assembly and will take effect for services provided on and after July 1, 2005. In accordance with Section 5111.22 of the Revised Code, the department is providing facilities with the rule number and title of rules proposed for rescission in lieu of an actual copy of the rules proposed for rescission.

These rules are being proposed for permanent **Adoption:**

Rule 5101:3-3-42 entitled NFs: Chart of Accounts sets forth the chart of accounts for nursing facilities (NFs). In order to implement Section 5111.26 of Am. Sub. H.B. 66 of the 126th General Assembly, the charts of accounts for nursing facilities and intermediate care facilities for the mentally retarded must be separated. This rule replaces in part Ohio Administrative Code rule 5101:3-3-20.1. The major changes to this chart of accounts, include the addition of new cost centers for the reporting of Ancillary and Support Services and Taxes, as well as the redistribution of cost accounts within the Direct Care and Ancillary and Support Services cost centers. Accounts were renumbered throughout all of the cost centers in order to accommodate these changes.

Rule 5101:3-3-42.1 entitled NF Medicaid Cost Report sets forth the cost report for nursing facilities (NFs). This rule is proposed for adoption on a permanent basis in accordance with Section 5111.26 of Am. Sub. H.B. 66 of the 126th General Assembly. Significant changes to the cost report, labeled Appendix A, include: (1) the addition of new cost centers for reporting Taxes and Ancillary and Support services costs, the addition of a box for the reporting of National Provider Identifier on Schedule A, the addition of fields to Schedule A to permit reporting of additional provider information, including Type of Control for the facility and Chain Home Office Information, the addition of Attachment 8, Employee Retention Rate, as required under Section 5111.244 of Am. Sub. H. B. 66 of the 126th General Assembly, and the addition of Section C on Attachment 5 entitled, Nurse Aide Training and/or Competency Evaluation Program Prohibitions, (2) the removal of cost centers for reporting Other Protected and Indirect Care costs, the removal of renovations from schedules D and D-1, the removal of the return on equity calculation section in Schedule E-1, removal of cost report types 4.4 Rate Reconsideration and 4.7 Capital, and removal of the Government Mandate cost account, (3) separation of the NF cost report from the ICF-MR cost report which will be proposed for adoption as rule 5101:3-3-71, and the rearranging of accounts under Taxes, Direct Care, and Ancillary and Support Services cost centers.

Rule 5101:3-3-42.2 entitled Nursing facilities (NFs): Leased staff sets forth the definition of leased staff services, the conditions under which leased staff services are reimbursable to NFs as other/contracted costs, and the manner in which staff leasing arrangements are reimbursable through the medicaid cost reporting mechanism. This

rule amplifies Section 5111.26 of Am. Sub. H.B. 66 of the 126th General Assembly and replaces in part former rule 5101:3-3-20.3, which is being rescinded.

Rule 5101:3-3-42.3 entitled Capital asset and depreciation guidelines – nursing facilities (NFs) sets forth capital asset and depreciation guidelines for NFs, the guidelines for determining if an expenditure should be capitalized, the method of depreciation to be used, and a table for determining the useful life of a capital asset contained in appendix A of the rule. The rule also sets forth the conditions for reporting disposal of assets, and the records that must be maintained by providers to support the reporting of capital asset depreciation. This rule amplifies Section 5111.25 of Am. Sub. H.B. 66 of the 126th General Assembly and replaces former rule 5101:3-3-51.1, which is being rescinded.

Rule 5101:3-3-42.4 entitled Nursing facilities (NFs): nonreimbursable costs identifies costs which are not reimbursable to NFs through the prospective cost reporting mechanism. This rule implements Sections 5111.20, 5111.26, 5111.263, 5111.265, and 5111.266 of Am. Sub. H.B. 66 of the 126th General Assembly and replaces former rule 5101:3-3-56, which is being rescinded.

Rule 5101:3-3-71 entitled ICFs-MR: Chart of Accounts sets forth the chart of accounts for intermediate care facilities for the mentally retarded (ICFs-MR). In order to implement Section 5111.26 of Am. Sub. H.B. 66 of the 126th General Assembly, the charts of accounts for nursing facilities and intermediate care facilities for the mentally retarded must be separated. This rule replaces in part Ohio Administrative Code rule 5101:3-3-20.1.

Rule 5101:3-3-71.1 entitled ICF-MR Medicaid Cost Report sets forth the cost report for intermediate care facilities for the mentally retarded (ICFs-MR). This rule is proposed for adoption on a permanent basis in accordance with Section 5111.26 of Am. Sub. H.B. 66 of the 126th General Assembly. Significant changes include the addition of a box for the reporting of National Provider Identifier on Schedule A, addition of fields to Schedule A to permit reporting of additional provider information including Type of Control for the facility and Chain Home Office Information, deletion of the Government Mandate cost account, removal of Group B costs from schedules D and D-1, and the removal of Attachment 5 Nurse Aide Training.

Rule 5101:3-3-71.2 entitled Intermediate care facilities for the mentally retarded (ICFs-MR): Leased employees sets forth the definition of leased staff services, the conditions under which leased staff services are reimbursable to ICFs-MR as other/contracted costs, and the manner in which staff leasing arrangements are reimbursable through the medicaid cost reporting mechanism. This rule amplifies Section 5111.26 of Am. Sub. H.B. 66 of the 126th General Assembly and replaces in part former rule 5101:3-3-20.3, which is being rescinded.

Rule 5101:3-3-71.3 entitled Capital asset and depreciation guidelines – intermediate care facilities for the mentally retarded (ICFs-MR) sets forth capital asset and depreciation guidelines for ICFs-MR, the guidelines for determining if an expenditure should be capitalized, the method of depreciation to be used, and a table for determining the useful life of a capital asset contained in appendix A of the rule. The rule also sets forth the conditions for reporting disposal of assets, and the records that must be maintained by providers to support the reporting of capital asset depreciation. This rule amplifies Section 5111.251 of Am. Sub. H.B. 66 of the 126th General Assembly and replaces former rule 5101:3-3-84.1, which is being rescinded.

Rule 5101:3-3-71.4 entitled Intermediate care facilities for the mentally retarded (ICFs-MR): nonreimbursable costs identifies costs which are not reimbursable to ICFs-MR through the prospective cost reporting mechanism. This rule implements Sections 5111.20 and 5111.26 of Am. Sub. H.B. 66 of the 126th General Assembly and replaces former rule 5101:3-3-89, which is being rescinded.

This rule is being proposed for permanent **Amendment** pursuant to Section 119.032 of the Revised Code, which requires the review of all state agency rules within a five year period.

Rule 5101:3-3-20 entitled Nursing facilities (NFs) and intermediate care facilities for the mentally retarded (ICFs-MR): medicaid cost report filing, record retention, and disclosure requirements sets forth the requirement for the timely filing of cost reports by NFs and ICFs-MR, the methodology for processing those reports by ODJFS, and penalties that may be applied for not filing cost reports as required. The rule is being amended to implement Sections 5111.26, 5111.27, and 5111.28 of Am. Sub. H.B. 66 of the 126th General Assembly. Changes include the elimination of language describing the nursing facility reimbursement formula that is no longer valid based on these sections. Former paragraph (A) is deleted because it required that rates be calculated each fiscal year based on the prior calendar year cost report. Language in former paragraph (C), allowing rate reconsiderations for disputed costs has been deleted. Language regarding desk reviews has been updated based on Section 5111.27 of Am. Sub. H.B. 66 of the 126th General Assembly. Former paragraph (K) has been changed to require providers to provide, on request, all contracts of ten thousand dollars or more during a twelve month period rather than twenty five thousand. Former paragraph (M)(3) was updated to show that maintenance and repair costs of transport vehicles should now be reported by NFs as Ancillary and Support costs. The proposed amendment also updates or eliminates references to Ohio Administrative Code rules that are being rescinded to implement Am. Sub. H.B. 66 of the 126th General Assembly and various grammatical changes appear throughout the body of the rule.

These rules are being proposed for permanent **Rescission** pursuant to Section 119.032 of the Revised Code, which requires the review of all state agency rules within a five year period.

Rule 5101:3-3-20.1 entitled Nursing facilities (NFs) and intermediate care facilities for the mentally retarded (ICFs-MR): Chart of accounts.

Rule 5101:3-3-20.2 entitled Nursing facility (NF) and intermediate care facility for the mentally retarded (ICF-MR): medicaid cost report.

Rule 5101:3-3-20.3 entitled Leased staff reimbursement for nursing facilities (NFs) and intermediate care facilities for the mentally retarded (ICFs-MR).

Rule 5101:3-3-42 entitled Calculation of quarterly and annual nursing facility (NF) average case mix scores.

Rule 5101:3-3-51.1 entitled Capital asset and depreciation guidelines – nursing facilities (NFs).

Rule 5101:3-3-56 entitled Nursing facilities (NFs): nonreimbursable costs.

Rule 5101:3-3-77 entitled Calculation of quarterly and annual intermediate care facility for the mentally retarded (ICF-MR) facility average case mix scores.

Rule 5101:3-3-84.1 entitled Capital asset and depreciation guidelines – intermediate care facility for the mentally retarded (ICFs-MR).

Rule 5101:3-3-89 entitled Intermediate care facilities for the mentally retarded (ICFs-MR): non-reimbursable costs.

A copy of the proposed rule(s) is available, without charge, to any person affected by the rule(s) at the address listed below. The rule(s) is also available on the internet at <http://www.registerofohio.state.oh.us/>. A public hearing on the proposed rule(s) 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 rule(s) or comments on the rule(s) 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.