

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

DATE: May 17, 2006
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 Ohio Revised Code and Section 1902(a)(13)(A) of the Social Security Act, the director of the Ohio Department of Job and Family Services gives notice of the department's intent to consider the adoption, amendment, or rescission of the rule or 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 and Am. Sub. H.B. 530 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 are a portion of the implementation of the Medicaid long term care facility reimbursement system that emerged as a result of Am. Sub. H.B. 66 and Am. Sub. H.B. 530 of the 126th General Assembly. Providers, consumers, and other concerned citizens were given notice and the opportunity to review and comment by publication in newspapers of general circulation on or about December 27, 2004 and November 2, 2005 of the Department's intent to make changes to the reimbursement methodology for nursing facilities (NFs) and intermediate care facilities for the mentally retarded (ICFs-MR). The provisions in these rules impact the way that NFs and ICFs-MR are reimbursed for services rendered to Medicaid recipients in state fiscal year 2007 (July 1, 2006- June 30, 2007) and beyond. The Department estimates there will be no increase or decrease in the amount of annual aggregate expenditures from fiscal year 2006 to fiscal year 2007 as a result of the Medicaid long term care facility reimbursement system that emerged as a result of Am. Sub. H.B. 66 and Am. Sub. H.B. 530 of the 126th General Assembly. If the changes are not implemented, aggregate payments to nursing facilities would be an estimated \$616 million higher in state fiscal year 2007.

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. Rates reflecting these changes will be paid beginning with July 2006 services. If, as an interested party, you need further information regarding the proposed method for calculating rates for a specific nursing facility or an intermediate care facility for the mentally retarded under the proposed methodology, contact the Office of Ohio Health Plans at 614-466-9088.

These rules are proposed for permanent **adoption**:

Rule 5101:3-3-02.7 entitled Emergency management and resident relocation plan for long term care facilities sets forth the requirements for emergency relocation of residents in long term care facilities. This rule is being proposed for adoption as part of a reorganization of

rules administered by the Bureau of Long Term Care Facilities. The provisions in this rule are being moved from former rule 5101:3-3-17 which is proposed for rescission. Minor grammatical changes have been made, and the title has been changed.

Rule 5101:3-3-17 entitled Payment methodology for the provision of outlier services in nursing facilities (NFs) is being proposed to implement Section 5111.258 of Am. Sub. H.B. 66 of the 126th General Assembly for fiscal year 2007 and beyond. This rule sets forth the methodology by which ODJFS will establish the contracted rate for outlier providers. The rule sets forth the components of the per diem rate and details the information that must be submitted by providers to ODJFS for establishment of the contracted outlier rate. This new rule is being proposed for adoption to align reimbursement for outlier providers with the reimbursement methodology prescribed in Am. Sub. H.B. 66 for FY07 and beyond. Some of the provisions in this rule are being moved from former rule 5101:3-3-25 which is proposed for rescission.

Rule 5101:3-3-24 entitled Prospective rate reconsideration for nursing facilities (NFs) for possible calculation errors is being proposed to implement Section 5111.29 of Am. Sub. H. B. 66 of the 126th General Assembly. This rule sets forth the process by which a facility, group, or association may request a reconsideration of a prospective rate on the basis of a possible error in calculation and states the process and time frame to be followed by ODJFS in response to the request for reconsideration.

Rule 5101:3-3-41 entitled Nursing facilities (NFs) placement into peer groups sets forth language that amplifies Sections 5111.231, 5111.24, and 5111.25 of Am. Sub. H.B. 66 of the 126th General Assembly by describing how ODJFS determines facility bed size for existing providers, new providers, and providers that have undergone a change of operator.

Rule 5101:3-3-57 entitled Tax cost add-on for nursing facilities (NFs) sets forth language that amplifies Section 5111.242 of Am. Sub. H.B. 66 of the 126th General Assembly by establishing the methodology by which ODJFS will determine a rate for tax costs for providers not having a filed calendar year cost report.

Rule 5101:3-3-58 entitled Quality incentive payment for nursing facilities (NFs) implements changes made to Section 5111.244 of Am. Sub. H.B. 530. This rule sets forth the methodology by which ODJFS will calculate the quality incentive payment for NFs as well as the basis for awarding points to each NF for meeting the quality criteria specified in Section 5111.244 (C) of Am. Sub. H.B. 530.

Rule 5101:3-3-65 entitled Nursing Facilities (NFs): Rates for providers with an initial date of certification on or after July 1, 2006 amplifies Section 5111.254 of Am. Sub. H.B. 66 of the 126th General Assembly. This rule sets forth the application of case-mix scores in determination of initial rates for providers with an initial date of certification on or after July 1, 2006 and the methodology by which ODJFS will adjust the case mix calculation for replacement facilities if necessary, to reflect any difference in the number of beds in the replaced and replacement nursing facilities.

Rule 5101:3-3-65.1 entitled Nursing Facilities (NFs): Rates for providers that change provider agreements amplifies Section 5111.254 of Am. Sub. H.B. 66 of the 126th General Assembly by establishing the methodology to determine an initial rate for an entering operator following a change of provider transaction and for establishing rates for the provider in subsequent fiscal years.

The following rule is being proposed for **amendment**:

Rule 5101:3-3-21 entitled Audits of nursing facility (NF) cost reports sets forth the process for the conducting of audits by ODJFS or outside contractors, time frames for provider submission of amended cost reports, and preparation of written summaries of audit disallowances. The proposed amendment implements changes in the rule pursuant to Section 5111.27 of Am. Sub. H.B. 66 of the 126th General Assembly, adds a website for the American Institute of Certified Public Accountants, and makes various grammatical changes to the rule.

The following rules are being proposed for **rescission**:

Rule 5101:3-3-17 entitled Emergency relocation plan.

Rule 5101:3-3-25 entitled Payment methodology for the provision of outlier services.

Rule 5101:3-3-26 entitled Nursing facilities (NFs) and intermediate care facilities for the mentally retarded (ICFs-MR): implementation of timely rates.

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 rules(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 rules@odjfs.state.oh.us.