

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

**DATE:** November 20, 2007  
**TIME:** 10:00 a.m.  
**LOCATION:** Room 2925, Rhodes State Office Tower  
30 East Broad St., Columbus, Ohio 43215

Pursuant to section 5111.02 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, adoption, and amendment of the rules as identified below and of a public hearing thereon.

**OAC Rule 5101:3-1-17.4**, entitled Length and type of provider agreements [Except Long-Term Care Nursing Facilities (NFs), Intermediate Care Facilities for the Mentally Retarded (ICFs-MR) and Medicaid Contracting Managed Care Plans (MCPs)], is being rescinded as a result of Am. Sub. HB 119, 127th General Assembly, and the five year rule review. This rule codifies the effective date of a Medicaid provider agreement, the types of Medicaid provider agreements, and the length of time a Medicaid provider agreement is effective.

**OAC Rule 5101:3-1-17.4**, entitled Length and type of provider agreements, is a new rule resulting from Am. Sub. HB 119, 127th General Assembly, and has been rewritten and proposed as a new rule to replace a rescinded rule of the same number. This rule describes the effective date of a Medicaid provider agreement, the types of Medicaid provider agreements (open-ended and time-limited), and the length of time a Medicaid provider agreement is effective. The rule includes definitions of the types of provider agreements (open-ended and time-limited), language regarding the conversion from provider agreements without a time limit to provider agreements with a time limit, and the types of providers (nursing facilities and intermediate care facilities for the mentally retarded) that are not subject to the conversion to a time-limited provider agreement. Also, the rule provides that ODJFS shall create a process to convert open-ended provider agreements to time-limited provider agreements and create a process for re-enrollment with ODJFS for when a time-limited agreement expires and the provider wants to extend their agreement and the consequences of failure to re-enroll in the time and manner required by ODJFS.

**OAC Rule 5101:3-1-17.5**, entitled Suspension of Medicaid provider agreements, is a new rule resulting from Am. Sub. HB 119, 127th General Assembly, and adds provisions relating to the administration of the Medicaid program. This new rule defines a "non-agency provider", a "non-institutional provider", and an "owner" and describes when ODJFS shall suspend a Medicaid provider agreement upon notification of indictment for any of the qualifying offenses specified in this rule. The suspension of the provider agreement includes the suspension of Medicaid reimbursement and this rule describes the process for a provider or owner to request reconsideration of the suspension of the provider agreement.

**OAC Rule 5101:3-1-17.6**, entitled Termination and denial of provider agreement [except long-term care nursing facilities (NFs), intermediate care facilities for the mentally retarded (ICFs-MR) and Medicaid contracting managed care plans (MCPs)], is being amended as a result of Am. Sub. HB 119, 127th General Assembly, and adds provisions relating to the administration of the Medicaid program. This rule describes when the Ohio Department of Job and Family Services may or shall propose to terminate or deny a Medicaid provider agreement.

New language includes that a provider is not eligible for reimbursement if a license, permit, certificate or certification has been denied, suspended, revoked, limited or was not renewed and that ODJFS may exclude any individual from rendering services in the Medicaid program even if they are not a Medicaid provider. Also, new language regarding termination of a provider agreement includes: if a provider accepts intervention in lieu of conviction; a provider fails to meet provider requirements; for any reason required or permitted by federal law; if a provider license, permit, certificate or certification is limited in some manner; if a provider is required to hold a license, permit, certificate or certification and does not have one; if a provider license, permit, certificate or certification has been sanctioned, regardless if the provider has licensure in another state; the provider has a disqualifying offence; a provider is convicted after suspension; and if a provider fails to submit a required background check.

Changes include defining situations when entering into a provider agreement are "not in the best interest" of the Medicaid program, clarification around the notification of deficiencies, updates to voluntary termination of a provider agreement and correcting citations.

Deletion of language was made regarding hearing rights that is covered in rule 5101:3-1-57 of the Administrative Code.

**OAC Rule 5101:3-1-57**, entitled Process for provider appeals from proposed departmental actions, is being amended as a result of Am. Sub. HB 119, 127th General Assembly, and adds provisions relating to the administration of the Medicaid program. This rule describes the process for provider appeals from proposed departmental action. The appeals process is designed to provide a hearing under Chapter 119. of the Revised Code whereby a provider may appeal the proposed decision by ODJFS to deny, terminate, or not renew a provider agreement or to implement a final fiscal audit.

Changes to the rule include additional circumstances when the appeals process under Chapter 119. of the Revised Code does not apply. These include, but are not limited to, the following departmental actions: when a license, certificate, and/or permit is required but the provider fails to obtain or maintain the license, certificate, or permit; when the provider agreement is suspended pending indictment of the provider; when the provider agreement is denied, terminated, or not renewed because the provider has been convicted; when the provider agreement is converted from an open-ended agreement to a time-limited agreement; and when the provider agreement has expired and has been terminated because the provider failed to re-enroll in the time and manner required by ODJFS.

One additional change not included in Am. Sub. HB 119 is when the provider agreement is terminated or not renewed because the provider has not billed or otherwise submitted a Medicaid claim to ODJFS for two years or longer and ODJFS has determined that the provider has moved from the address on record without leaving a forwarding address with ODJFS.

A copy of the proposed rules, is available, without charge, to any person affected by the rules at the address listed below. These 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 Services, 30 East Broad Street, 31<sup>st</sup> Floor, Columbus, Ohio 43215-3414, by fax at (614) 752-8298, or by e-mail at [rules@odjfs.state.oh.us](mailto:rules@odjfs.state.oh.us).