

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

DATE: May 18, 2009

TIME: 10:00 a.m.

**LOCATION: Multi-Purpose Room, First Floor, 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 amendment of the rules as identified below and of a public hearing thereon.

OAC Rule 5101:3-1-09, titled "Medicaid co-payment program [except for Medicaid consumers enrolled in the Medicaid managed health care program]," is being proposed for amendment to assure consistency with other rules contained in division 5101:3 of the Administrative Code and to fulfill the requirements of five year rule review. This rule sets forth co-payment requirements for Medicaid consumers. Changes clarify that family planning services means pregnancy prevention/contraceptive management services and that pregnancy prevention/contraceptive management (family planning) services are not subject to a co-payment, regardless of gender. Changes also update rule references, correct grammatical errors, and improve readability.

OAC Rule 5101:3-4-02, titled "Scope of coverage," is being proposed for amendment to assure consistency with other rules contained in division 5101:3 of the Administrative Code and to fulfill the requirements of five year rule review. This rule sets forth the requirements of physician supervision of services provided by non-physicians. Changes incorporate a definition of "non-physician" and clarify that family planning services means pregnancy prevention/contraceptive management services. Changes also update a rule reference, improve sentence structure, delete an out-of-date reference to registered nurses, improve readability, and include a reference to occupational therapists.

OAC Rule 5101:3-4-07, titled "Family planning services," is being proposed for rescission as a result of five year rule review. This rule defines family planning services. This rule will be replaced, in part, with proposed new rules 5101:3-21-02, 5101:3-21-02.1, and 5101:3-21-02.2.

OAC Rule 5101:3-4-13, titled "Therapeutic injections (including trigger point injections) and prescribed drugs," is being proposed for amendment to assure consistency with other rules contained in division 5101:3 of the Administrative Code and to fulfill the requirements of five year rule review. This rule sets forth requirements related to Medicaid coverage of therapeutic injection services. Changes reference rule 5101:3-4-28 of the Ohio Administrative Code, "Noncovered services," instead of listing examples of non-covered services.

OAC Rule 5101:3-4-28, titled "Noncovered services," is being proposed for amendment to assure consistency with other rules contained in division 5101:3 of the Administrative Code and to fulfill the requirements of five year rule review. This rule sets forth requirements for Medicaid coverage of of therapeutic injections. Changes include deleting paragraphs (E) and (F), addressing hysterectomies and sterilizations, to clarify that hysterectomies and voluntary sterilizations are Medicaid covered services, consolidating and amending paragraphs (G) and (H), addressing infertility services, to reference the definition of such services in proposed rule 5101:3-21-03, and adding paragraphs (Q) and (R), addressing patient convenience items and pregnancy related surrogacy services, for consistency with rule 5101:3-2-03. Changes also include an updated rule reference and structural changes to improve readability.

OAC Rule 5101:3-4-34, titled "Preventive medicine services," is being proposed for amendment to assure consistency with other rules contained in division 5101:3 of the Administrative Code and to fulfill the requirements of five year rule review. This rule defines preventive medicine as services that prevent disease, maintain good health, and proactively avoid disease, disability and death. This rule specifies which preventive medicine services are covered under the Ohio Medicaid program. Changes clarify that pelvic exams, breast exams, and Pap smears are usually provided within the context of a single evaluation and management visit code and that family planning services means pregnancy prevention/contraceptive management services. Changes also update rule references, correct formatting errors, and improve readability.

OAC Rule 5101:3-13-01.5, titled "Fee-for-service ambulatory health care clinics (AHCCs): family planning clinics," is being proposed for amendment to assure consistency with other rules contained in division 5101:3 of the Administrative Code and to fulfill the requirements of five year rule review. This rule outlines requirements that apply to all fee-for-service family planning ambulatory health care clinics. Changes clarify that family planning services means pregnancy prevention/contraceptive management services and to reference Chapter 5101:3-26 (Medicaid managed care) of the OAC. This rule is also amended to update rule references.

OAC Rule 5101:3-21-01, titled "Sterilization," is being proposed for rescission as a result of five year rule review and will be replaced with rule 5101:3-21-02.2 of the Administrative Code. This rule sets forth requirements regarding Medicaid coverage of permanent sterilization and hysterectomy procedures.

OAC Rule 5101:3-21-01, titled "Medicaid covered reproductive health services: preconception care services," is being proposed to clarify that the Department covers services that improve pregnancy outcomes. This new rule describes Medicaid coverage of services that are provided for the purpose of achieving optimal outcome of future pregnancies. This rule instructs providers to submit claims in such a manner that in the future the department can easily track the delivery of such services. This proposed new rule does not enact any change in Medicaid coverage of services or procedure codes.

OAC Rule 5101:3-21-02, titled "Medicaid covered reproductive health services: pregnancy prevention/contraception services," is being proposed to replace, in part, rule

5101:3-4-07 of the Administrative Code, which is rescinded as a result of five year rule review and to clarify the Department's coverage of pregnancy prevention services. This new rule describes Medicaid coverage of services that are provided for the primary purpose of preventing or delaying pregnancy. This proposed new rule does not enact any change in Medicaid coverage of services or procedure codes. This rule clarifies that, for the purposes of Medicaid, "family planning" means preventing or delaying pregnancy. This rule instructs providers to submit claims in such a manner that in the future the department can easily track the delivery of such services.

OAC Rule 5101:3-21-02.1, titled "Medicaid covered reproductive health services: temporary pregnancy prevention/contraceptive management services," is being proposed to replace, in part, rule 5101:3-4-07 of the Administrative Code, which is rescinded as a result of five year rule review, and to clarify the Department's coverage of temporary pregnancy prevention services. This new rule describes Medicaid coverage of services that are provided for temporarily preventing or delaying pregnancy. This new rule clarifies that a wide range of Medicaid covered services and procedures may be considered temporary pregnancy prevention/contraceptive management (family planning) services. This proposed new rule does not enact any change in Medicaid coverage of services or procedure codes.

OAC Rule 5101:3-21-02.2, titled "Medicaid covered reproductive health services: permanent contraception/sterilization services and hysterectomy," is being proposed to replace, in part, rule 5101:3-4-07 and rule 5101:3-21-01 which are being rescinded as a result of the five-year review requirement and to clarify the Department's coverage of permanent methods of pregnancy prevention (i.e., sterilization procedures). This new rule clarifies that federal regulations govern Medicaid coverage of sterilization and hysterectomy procedures, that both male and female sterilization procedures are Medicaid covered services, that hysterectomy is defined in accordance with federal regulations as a procedure or operation "for the purpose of removing the uterus," and that Medicaid does not cover hysterectomy procedures provided for the purpose of sterilization. This proposed new rule does not enact any change in Medicaid coverage of services or procedure codes.

OAC Rule 5101:3-21-03, titled "Medicaid covered reproductive health services: infertility services," is being proposed to clarify that the Department does not cover infertility services. This new rule defines infertility services as services that are provided for the purpose of enabling an infertile individual capable of reproducing and specifies that such services are not covered by Medicaid.

OAC Rule 5101:3-29-01, titled "Eligible providers," is being proposed for amendment to assure consistency with other rules contained in division 5101:3 of the Administrative Code and to fulfill the requirements of five year rule review. This rule describes Medicaid requirements pertaining to provider enrollment as an "outpatient health facility" (OHF). Changes clarify that family planning services means pregnancy prevention/contraceptive management services. Changes also update rule references,

correct spelling, grammatical and formatting errors, incorporate terminology consistent with Chapter 5101:3-4 of the Administrative Code, and improve readability.

OAC Rule 5101:3-29-04, titled "Billable services," is proposed for amendment to assure consistency with other rules contained in division 5101:3 of the Administrative Code and to fulfill the requirements of five year rule review. This rule specifies Medicaid requirements pertaining to services provided by outpatient health facilities. Changes clarify that family planning services means pregnancy prevention/contraceptive management services. Changes also correct spelling and grammatical errors, improve readability, and incorporate terminology consistent with rules contained in Chapter 5101:3-4 of the Administrative Code.

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 rules@jfs.ohio.gov.