

**LEGAL NOTICE****STATE OF OHIO  
OHIO DEPARTMENT OF JOB AND FAMILY SERVICES  
COLUMBUS, OHIO**

PURSUANT TO SECTION 5111.02 AND CHAPTER 119. OF THE REVISED CODE AND SECTION 1902 (a)(13)(A) OF THE SOCIAL SECURITY ACT, THE DIRECTOR OF THE DEPARTMENT OF JOB AND FAMILY SERVICES GIVES NOTICE OF THE DEPARTMENT'S INTENT TO AMEND RULES 5101:3-3-02, 5101:3-3-02.3, 5101:3-3-04, 5101:3-3-04.1, 5101:3-3-16, 5101:3-3-16.2, AND 5101:3-3-23 ON A PROPOSED PERMANENT BASIS, AND OF A PUBLIC HEARING UPON THE PROPOSED AMENDMENTS.

The rules referenced in this public notice have been reviewed pursuant to Section 119.032 of the Revised Code, which requires the review of all state agency rules every five years. The intent of the review is to determine whether a rule should be continued without amendment, should be amended, or should be rescinded, taking into consideration the rule's purpose and scope. In addition, the review ensures the rules are clear and concise as written, program requirements are accurate and up-to-date, unnecessary paperwork is eliminated and when possible, local agencies are given more flexibility. The amendment of the following rules had no fiscal impact on the payment rates. The department estimates the amendment of these rules will not increase or decrease Medicaid expenditures on an annual aggregate basis.

Rule 5101:3-3-02 entitled "Provider agreements: nursing facilities (NFs) and intermediate care facilities for the mentally retarded (ICFs-MR)" sets forth the payment and adjustment process for notification of an admission, discharge, or death of a resident in a NF or ICF-MR. This rule is being proposed for permanent amendment to specify "as amended through April 15, 2003" for each statutory and regulatory reference set forth in paragraphs (A)(1)(c), (A)(6), (B)(13), and (B)(14). This rule is also being proposed for permanent amendment to replace the phrase "legal philosophy" with the word "law" in paragraph (B)(2).

Rule 5101:3-3-02.3 entitled "Eligible providers and provider types" sets forth components of the Medicaid provider agreement and bed certification requirements. This rule also sets forth the types of certified facilities that may participate in medicaid, the facilities where medicaid services can be provided, the types of beds certification that may be requested, and the distinct parts that may be designated at different certified levels. This rule is being proposed for permanent amendment to add the word "and" in the list under paragraph (B).

Rule 5101:3-3-04 entitled "Payment during the Ohio department of job and family services (ODJFS) administrative appeals process for denial or termination of a provider agreement" sets forth when medicaid payments to eligible resident during administrative appeal process. This rule is being proposed for permanent amendment to reorganize the language in paragraph (A) and replace the semi colons with commas in paragraph (B)(2).

Rule 5101:3-3-04.1 entitled "Payment during the survey agency's administrative appeals process" sets forth the payment requirements for nursing facilities and intermediate care facilities for the mentally retarded during the administrative appeals process for termination or non-renewal of Medicaid certification. This rule is being proposed for permanent amendment to change "federal" to "United Sates" in paragraph (A)(2), replace the semi colons with commas in paragraph (D)(3)(b), and eliminate the double "the" in paragraph (E)(2).

Rule 5101:3-3-16 entitled "Resident rights in nursing facilities (NFs) and intermediate care facilities for the mentally retarded (ICFs-MR)" sets forth the rights of residents in a NF or ICF-MR and protects those residents against inappropriate discharge actions. This rule is being proposed for permanent amendment to update the reference to the Revised Code cites in paragraph (E). This rule is also being proposed for permanent amendment in paragraph (C) to specify "as amended September 23, 1992" for CFR reference 483.12, 483.13, and 483.15 and to specify "as amended June 27, 1995" for CFR reference 483.10.

Rule 5101:3-3-16.2 entitled "Advance directives for nursing facilities" sets forth the advance directive requirements for nursing facilities. This rule is being proposed for permanent amendment to add in paragraph (B)(1) the phrase "for the release", (B)(2) the phrase "provide a method for informing", and (B)(6) the word "for" for clarification purposes. This rule is also being proposed for permanent amendment to specify "as amended November 30, 1999" for the CFR reference set forth in paragraph (B)(1).

Rule 5101:3-3-23 entitled "Private rooms for medicaid residents in nursing facilities (NFs) and intermediate care facilities for the mentally retarded (ICFs-MR)" sets forth components of the Medicaid reimbursement requirements for private room accommodations for residents of NFs and ICFs-MR. This rule is being proposed for permanent amendment for grammatical purposes in the introductory paragraph.

A copy of the proposed rules is available for review in each County Department of Job and Family Services. A copy of the rules is also available, without charge, at the address listed below and on the internet at <http://www.state.oh.us/odjfs/ols/pubHearings/index.stm>.

A public hearing on the proposed rules will be held on **May 20, 2003** at **10:00 a.m.** in room **1814, 30 East Broad Street, Columbus, Ohio**. Either written or verbal testimony on the proposed rules will be taken at the public hearing. Additionally, written comments submitted or postmarked no later than **May 20, 2003** will be treated as testimony.

Requests for a copy of the proposed rules or the written comments on the proposed rules should be submitted by mail to the "Office of Legal Services, Ohio Department of Job and Family Services (ODJFS), 30 East Broad Street, 31st Floor, Columbus, Ohio 43215-3414", by fax at (614) 752-8298, or by e-mail at "public\_records@odhs.state.oh.us". Written comments received by ODJFS may be reviewed at the address listed above.