

**FEDERAL MEDICAID NOTICE AND PUBLIC HEARING NOTICE
OHIO DEPARTMENT OF MEDICAID**

DATE: April 27, 2015
TIME: 10:00 a.m.
LOCATION: Room A501, 50 West Town Street
Columbus, Ohio 43215

Pursuant to section 5165.02 and Chapter 119. of the Ohio Revised Code, the director of the Ohio Department of Medicaid gives notice of the department's intent to consider the rescission and adoption of the rules identified below and of a public hearing thereon.

Pursuant to 42 CFR 447.205(a) and Section 1902(a)(13)(A) of the Social Security Act, the director of the Ohio Department of Medicaid gives notice of the department's intent to rescind rule 5160-3-19, adopt new rule 5160-3-19, and of a public input process thereon.

Proposed for Rescission

Rule 5160-3-19, entitled "Relationship of other covered medicaid services to nursing facility (NF) services" sets forth the covered services generally available to Medicaid recipients, and describes the relationship of those services to the services provided to Medicaid recipients who reside in a nursing facility. This rule was reviewed pursuant to a five-year rule review. As a result of that review, this rule is being proposed for rescission and is being replaced by new rule 5160-3-19.

Proposed for Adoption

Rule 5160-3-19, entitled "Nursing facilities (NFs): relationship of NF services to other covered medicaid services" sets forth the covered services generally available to Medicaid recipients, and describes the relationship of those services to the services provided to Medicaid recipients who reside in a nursing facility. This rule is being proposed for adoption to replace rule 5160-3-19, which is being proposed for rescission. The differences between this rule and the rule it is replacing are:

- The rule title is being modified in order to be consistent with the titles of other nursing facility rules in Chapter 5160-3 of the Administrative Code.
- Language is being changed throughout the rule to refer to payment rather than to reimbursement, and references to reimbursement through the facility's cost report are being changed to payment through the NF per diem.
- In paragraph (A) regarding dental services, language is being added to clarify that personal hygiene services provided by facility staff are related to dental services.
- Language regarding custom wheelchairs, oxygen, and medical transportation by ambulance and wheelchair van, is being updated to reflect that these services are now paid for on a fee-for-service basis rather than through the NF per diem pursuant to Ohio Revised Code section 5165.01 adopted by Am. Sub. HB 59 of the 130th General Assembly. Additionally, to reflect the change in method of payment, the provisions for non-emergency oxygen are being moved from paragraph (C)(1)(c), which specifies items that must be paid for through the nursing facility per diem, to new paragraph (C)(2)(d), which specifies items for which payment is made on a fee-for-service basis.

- The provisions regarding psychologist services and respiratory therapy services are being broken out from paragraph (E) and moved to new paragraphs (H) and (I) in order to be easier for readers to find.
- In paragraph (F)(1)(c)(iii), the provisions regarding delegation of required physician visits are being modified to require compliance with federal regulations specified in 42 C.F.R. 483.40.
- In paragraph (F)(1)(c)(iv) regarding physician delegation of tasks, the term "certified nurse practitioner" is being replaced with the term "advanced practice registered nurse (APRN)" in order to be consistent with definitions in the Ohio Revised Code and with current nursing practice in nursing facilities, and the Revised Code Chapter citation regarding APRNs is being corrected. Language is also being modified in paragraph (F)(1)(c)(iv)(A)(ii) to require APRNs to practice with a standard care arrangement entered into with each physician with whom an APRN collaborates in accordance with section 4723.431 of the Revised Code, and to require a copy of the standard care arrangement to be on file at each nursing facility where the APRN practices.
- In paragraph (F)(2), APRNs are being added to physicians as a provider type to whom direct payment for provision of physician services may be made. In paragraph (F)(2)(b), the requirement for physicians to sign and date every entry in a resident's medical record documenting provision of physician services is being extended to include APRNs.
- Language in paragraph (G) regarding podiatry services is being modified to clarify that residents in a nursing facility may access podiatry services in the same amount, duration, and scope as all other Medicaid recipients, but only one podiatry visit per month may occur in a nursing facility setting.
- Ohio Administrative Code references are being updated due to the creation of the Ohio Department of Medicaid by Am. Sub. HB 59 of the 130th General Assembly and the subsequent renumbering of rules by the Legislative Services Commission.
- Minor language is being changed throughout the rule for clarity and better comprehension.

The Ohio Department of Medicaid estimates the change from per diem to fee-for-service payment for custom wheelchairs, non-emergency oxygen, and medical transportation will not change expenditures for nursing facility services in state fiscal year 2015 when compared to expenditures for nursing facility services in state fiscal year 2014 because the overall reduction in per diem payments for these three services will be offset by a corresponding increase in payment of fee-for-service claims, as they were in state fiscal year 2014.

The Ohio Department of Medicaid estimates the clarification regarding podiatry services will not change expenditures for nursing facility services in state fiscal year 2015 when compared to expenditures for nursing facility services in state fiscal year 2014 because Ohio podiatry providers historically have had this policy understanding, have been implementing it for numerous years, and routinely submit claims for nursing facility residents who receive multiple podiatry visits per month.

Copies of the proposed rules are available at the address listed below, without charge, to any person affected by the rules and at the county departments of job and family services. The proposed 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 Medicaid, Office of Legal Counsel, 50 W. Town Street, Suite 400, Columbus, Ohio 43215, by fax at (614) 995-1301, or by e-mail at rules@medicaid.ohio.gov. Comments received may be reviewed upon request.