

**AMENDED PUBLIC HEARING NOTICE
OHIO DEPARTMENT OF MEDICAID**

DATE: September 14, 2017
TIME: 11:00 a.m.
LOCATION: Room B538, Lazarus Building
50 W. Town St., Columbus, OH 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 adoption, amendment, or rescission of the rule or rules as identified below and of a public hearing thereon. This public hearing notice was originally published on August 15, 2017. Since that time, additional changes have been made to Appendix A of Administrative Code rule 5160-3-42. This amended notice incorporates those additional changes.

Proposed for Amendment

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 was reviewed pursuant to a five-year rule review. As a result of that review, this rule is being proposed for amendment. The changes to the rule are:

- In new paragraph (A), due to a change in departmental policy, language is being added so that acupuncture services in nursing facilities provided by eligible acupuncture providers are paid directly to the provider of acupuncture services in accordance with OAC rule 5160-8-51.
- In new paragraph (B), language is being added in order to implement provisions of ORC Section 5165.01 adopted under HB 483 of the 131st General Assembly that removed behavioral and mental health services from the direct care component of the nursing facility per diem rate, and to reflect current departmental practices.
- In the header of paragraph (E), terminology is being changed from "medical supply services" to "medical supplier services" in order to be consistent with the terminology used in OAC rule 5160-10-02.
- In the opening paragraph of (E), a citation to rule 5160-10-02 is being added for purposes of clarification.
- In paragraph (E)(1)(a), terminology is being changed from "needed medical and program supplies" to "medical supplies" in order to be consistent with the terminology used in OAC rule 5160-10-02.
- Also in paragraph (E)(1)(a), electric pads are being deleted as a medical supply item paid for by Medicaid because federal life safety code regulations do not permit the use of these items in nursing facilities.
- In paragraph (E)(2), language is being changed for purposes of accuracy and clarification.
- In paragraph (F)(1), a paragraph reference to rule 5160-9-03 is being corrected.
- In paragraph (H)(1), language is being changed in order to clarify that payment for physician services rendered to NF residents is made directly to the physician, not through the NF per diem rate.
- Provisions in paragraphs (H)(1)(a), (H)(1)(b), and (H)(1)(c) are being deleted because the provisions are addressed elsewhere in the Administrative Code.

- In paragraph (H)(3)(a), in order to be consistent with federal regulations, language is being changed so that after a resident is seen by a physician at least once every 30 days for the first 90 days after admission, the resident must then be seen at least once every 60 days thereafter instead of 90 days thereafter.
- In paragraph (H)(3)(c)(iii), in order to be consistent with federal regulations, language is being added that, in addition to signing all orders, a physician must also date all orders, except influenza and pneumococcal vaccines, which may be administered per physician-approved facility policy after an assessment for contraindications.
- Paragraph (H)(1)(c)(iii) is being moved to new paragraph (H)(3)(d)(ii) for more logical organization of information.
- In paragraph (H)(3)(d)(i), the acronym APRN is being spelled out to comply with Legislative Service Commission rule filing guidelines.
- In new paragraph (H)(3)(d)(i)(c), language is being added in order to describe the criteria for physician assistants. Language to include physician assistants also is being added in paragraph (H)(4).
- Provisions in existing paragraph (H)(3) is being moved to new paragraph (H)(2) for more logical organization of information.
- Due to a change in the Department of Medicaid's policy, language is being removed in paragraph (I) that limits nursing facility residents to one podiatry visit per month in a NF setting.
- In old paragraph (H), language is being deleted in order to remove obsolete provisions.
- Ohio Revised Code, Ohio Administrative Code, and Code of Federal Regulations citations are being updated as necessary.
- Paragraph references are being changed or deleted as necessary.
- Grammatical and phrasing changes are being made throughout the rule for purposes of clarity, accuracy, and improved readability.

Rule 5160-3-42, entitled "Nursing facilities (NFs): chart of accounts" sets forth the chart of accounts to be used for Medicaid nursing facility cost reporting. There are no changes being made to this rule. However, changes are being made to Appendix A of this rule. Those changes are:

- Account 6207 "Behavioral and Mental Health Services" is being removed from direct care costs. This change is being made due to provisions in HB 483 of the 131st General Assembly that removed behavioral and mental health services from the direct care component of the nursing facility per diem rate. Instead, payment for behavioral and mental health services, which are included in Ancillary/Support Costs, are made directly to the provider of those services.
- Account 6322 "Oxygen (only through 12/31/13)" is being removed from direct care costs. This change is being made because provisions in HB 59 of the 130th General Assembly removed oxygen from the direct care component of the nursing facility per diem rate effective January 1, 2014. Instead, costs for non-emergency oxygen are paid directly to the oxygen provider.
- In Account 7631 "Resident Transportation," the note that ambulance and ambulette transportation provided on or after January 1, 2014 can be billed directly to Medicaid by the transportation provider is being removed because it is no longer necessary.
- Account 7735 "Custom Wheelchairs (only through 12/31/13)" is being removed from direct care costs. This change is being made because provisions in HB 59 of the 130th General Assembly removed custom wheelchairs from the direct care component of

- the nursing facility per diem rate effective January 1, 2014. Instead, costs for custom wheelchairs are paid directly to the provider.
- Under the category "Non-Reimbursable Expenses," language is being modified to remove the phrase "regarding therapy" because the language is obsolete, and to clarify that certain items and services may be paid directly to the provider of the item or service.
 - In Account 9720 "Non-Emergency Oxygen," the note is being removed that states costs for non-emergency oxygen should be reported in this account or after January 1, 2014 because the note is no longer necessary.
 - In Account 9725 "Other Non-Reimbursable," the note is being removed that states costs for wheelchairs should be reported in this account on or after January 1, 2014 because the note is no longer necessary. Also in Account 9725, language is being added that costs for custom wheelchairs are to be reported in this account.

A copy of the proposed rules are available, without charge, to any person at the address listed below. The rules also are 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. Written and 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 43215-3414, by fax at (614) 995-1301, or by e-mail at Rules@Medicaid.Ohio.gov. Testimony received may be reviewed at this address.