

**PUBLIC HEARING NOTICE
OHIO DEPARTMENT OF MEDICAID**

DATE: November 27, 2017
TIME: 11:00am
LOCATION: 50 West Town St., Room A501,
Columbus, Ohio 43215

Pursuant to Chapter 119. and section 5164.02 of the Revised Code, the director of the Ohio Department of Medicaid (ODM) gives notice of the Department's intent to amend, and rescind and file as new the rules identified below and of a public hearing thereon.

Rule 5160-3-05, entitled Level of Care Definitions, is being rescinded and filed as new in compliance with five year rule review.

Changes to rule 5160-3-05 include:

- State agency name references, form numbers, and rule number references were updated to reflect statutory and Administrative Code changes.
- Removed unnecessary definitions related to intermediate care facility for persons with mental retardation (ICF-MR) level of care. The Department of Detailed the components of Activities of Daily Living (ADLs).
- Updated the definition and components of Instrumental Activities of Daily Living (IADLs).
- Added definitions of “child” and “adult” for level of care purposes.
- Removed the definition of “alternative form.”
- Modified the definition of “unstable medical condition.”
- Added definitions of “age appropriate ADLs” and “age appropriate IADLs.”
- Added the definition of a “qualified assessor.”
- Updated the definition of a “level of care validation.”

Rule 5160-3-06, entitled Criteria for the Protective Level of Care, is being rescinded and filed as new in compliance with five year rule review.

Changes to rule 5160-3-06 include:

- State agency name references, form numbers, and rule number references were updated to reflect statutory and Administrative Code changes.
- Clarified that protective level of care is specific to the adult population with the exception of individuals’ age 18 through 20 years who are residential state supplement applicants.
- Removed unnecessary references to the Intermediate, Skilled and ICF-MR levels of care.
- Detailed the components of ADLs.

- Updated the components of IADLs.
- Added the use of an ODM approved assessment instrument to determine the need for less than twenty-four hour support in order to prevent harm due to a cognitive impairment, when diagnosed by a physician.

Rule 5160-3-08, entitled Criteria for Nursing Facility-Based Level of Care, is being rescinded and filed as a new rule entitled Criteria for Nursing Facility-Based Level of Care for an Adult in compliance with five year rule review.

Changes to rule 5160-3-08 include:

- State agency name references, form numbers, and rule number references were updated to reflect statutory and Administrative Code changes.
- Clarified that this rule is specific to the adult population.
- Updated DODD rule references and related terms.
- Detailed the components of ADLs.
- Added the use of an ODM approved assessment instrument to determine the need for twenty-four hour support in order to prevent harm due to a cognitive impairment, when diagnosed by a physician.
- Added language that will allow an adult with a developmental disability to maintain nursing facility- based waiver enrollment at re-assessment.

Rule 5160-3-09, entitled Criteria for Nursing Facility-Based Level of Care for a Child is being proposed as new.

This proposed new OAC rule 5160-3-09 establishes criteria for determining level of care for a child. Currently, in the State of Ohio, children who are assessed for a level of care are evaluated using the criteria designed for the adult population. This rule sets forth age specific level of care criteria for determining a level of care for a child.

Rule 5160-3-10, entitled Nursing Facility-Based Level of Care Assessment and Determination Process for Children is being proposed as new.

This proposed new OAC rule 5160-3-10 establishes a process for determining level of care for a child. Currently, in the State of Ohio, children who are assessed for a level of care are evaluated using the process designed for the adult population. This rule sets forth the process for determining a level of care for a child.

Rule 5160-3-14, entitled Process and Timeframes for a Level of Care Determination for Nursing Facility-Based Level of Care Programs is being rescinded and filed as a new rule entitled Nursing Facility-Based Level of Care Assessment and Determination process for Adults in compliance with five year rule review.

Changes to rule 5160-3-14 include:

- State agency name references, form numbers, and rule number references were updated to reflect statutory and Administrative Code changes.
- Clarified that this rule is specific to the adult population.
- Removed unnecessary references to ICF-MR level of care.
- Added the use of an ODM approved assessment instrument to determine the need for less than twenty-four hour support in order to prevent harm due to a cognitive impairment, when diagnosed by a physician.
- Added the need for a face-to-face level of care assessment when an individual seeking a nursing facility-based level of care appears to meet solely on the basis of a need for twenty-four hour support in order to prevent harm due to a cognitive impairment.
- Replaced the usage of the JFS 03697, “Level of Care Assessment” or alternative form to determine level of care with the ODM 10125 “Adult Comprehensive Assessment Tool” (ACAT) or ODM 10127 “Adult Level of Care Questionnaire.”
- Removed the requirement for a physician certification on the JFS 03697.
- Updated necessary supporting documentation requirements.

A copy of each of the proposed rules is available at the address listed below and without charge, to any person affected by the rules and at the county department 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. 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 West Town Street, 4th Floor, Columbus, Ohio 43218, by fax at (614) 995-1301, or by e-mail at rules@medicaid.ohio.gov. Comments received may be reviewed upon request.