

**PUBLIC HEARING NOTICE
OHIO DEPARTMENT OF MEDICAID**

DATE: December 26, 2018
TIME: 11:00 a.m.
LOCATION: Room A 501, Lazarus Building
50 W. Town St., Columbus, OH 43215

Pursuant to sections 5165.02 and 5165.516 and Chapter 119. of the Ohio Revised Code, the director of the Ohio Department of Medicaid (department) 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.

Proposed for Rescission

Rule 5160-3-65.1 entitled "Nursing facilities (NFs): rates for providers that change provider agreements" sets forth the provisions for setting rates for nursing facilities that change provider agreements. 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 5160-3-65.1.

Proposed for Adoption

Rule 5160-3-65.1 entitled "Nursing facilities (NFs): rates for providers that change provider agreements" sets forth the provisions for setting rates for nursing facilities that change provider agreements. This rule replaces rule 5160-3-65.1, which is being proposed for rescission. The differences between this rule and rescinded rule 5160-3-65.1 are:

- In paragraph (A), language is being removed to align with the Ohio Revised Code. In addition, the date November 1, 2006 is being removed because it is no longer relevant, and language is being revised to enhance readability.
- Throughout the rule, the term "fiscal year" is being changed to "state fiscal year" for purposes of clarity.
- For purposes of clarity, provisions regarding rates for the second state fiscal year for direct care costs are being moved from paragraph (C) to new paragraph (D).
- Also for purposes of clarity, language is being added in new paragraph (D) regarding the use of the median annual average case-mix score for the entering operator's peer group to calculate a case-mix score if the entering operator's quarterly submissions do not qualify for use in calculating a semiannual case-mix score.

Proposed for Amendment

Rule 5160-3-16.3, entitled "Nursing facilities (NFs): private rooms" sets forth the provisions for private rooms in nursing facilities. 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 this rule are:

- In paragraph (A)(1), language is being added to clarify that infection control is an example of medical necessity requiring a nursing facility operator to provide a private room, if available, to a Medicaid eligible resident.
- In paragraph (A)(2), language is being added to clarify that Medicaid payment shall be

considered payment in full, and no supplemental payment may be requested or accepted from a resident or from a resident's authorized representative or family.

- In paragraph (B)(2), language is being added to clarify that, when semiprivate or ward accommodations are not available, Medicaid will not pay more for a private room than the current Medicaid per diem rate, and no supplemental payment may be requested or accepted from the resident, or from a resident's authorized representative or family.
- In paragraph (C), language is being added to clarify that, when semiprivate or ward accommodations are available but the resident or resident's authorized representative or family member makes a written request for a private room, the nursing facility may seek supplemental payment from the resident's authorized representative or family.
- In paragraph (C)(3), language is being added to clarify that, when supplemental payment is made for a private room, the nursing facility operator must detail the supplemental charges, if applicable, on a resident's statement of charges so the additional cost of the private room is evident to the resident and the resident's authorized representative and family.
- In paragraph (C)(5), language regarding patient liability is being re-written to be more clear and succinct.
- Throughout the rule, the term "representative" is being changed to "authorized representative" in order to use more precise terminology.
- Grammatical changes are being made throughout the rule to improve readability.

Rule 5160-3-64.1 entitled "Nursing facilities (NFs): payment for cost-sharing other than medicare part A" sets forth the provisions for cost sharing for other than for Medicare Part A. 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 this rule are:

- In paragraphs (A) and (B), the term "NF per diem" is being changed to "NF per diem rate" in order to be more accurate.

A copy of the proposed rules is available, without charge, to any person at the address listed below. The 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, Rule Administrator, 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.