

PUBLIC HEARING NOTICE  
OHIO DEPARTMENT OF MEDICAID

DATE: June 16, 2020

TIME: 11:00 a.m.

Teleconference Phone Number 614-721-2972

Teleconference Pin 215828996

Pursuant to Chapter 119. and section 5165.02 of the Revised Code, the Director of the Ohio Department of Medicaid (ODM) gives notice of ODM's intent to consider the adoption, amendment, or rescission of the rule or rules identified below and of a public hearing thereon.

Proposed for Rescission

Rule 5160-3-03.2 entitled "Nursing facilities (NFs): resident protection fund and collection of fines" sets forth the provisions for the resident protection fund, including fund management and reimbursement, required annual reporting, the methods and procedures for collection of fines that are subsequently deposited into the resident protection fund, and the purposes for which the money in the fund may be used. 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 5160-3-03.2 because more than fifty percent of the rule is changing.

Rule 5160-3-16.1, entitled "Nursing facilities (NFs): resource assessment notice" sets forth the resource assessment notice provisions for 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 rescission because the requirement for a resource assessment notice is specified in federal regulations.

Proposed for Adoption

Rule 5160-3-03.2 entitled "Nursing facilities (NFs): resident protection fund and collection of fines" sets forth the provisions for the resident protection fund, including management and disbursement of funds, the methods and procedures for collection of fines that are subsequently deposited into the resident protection fund, and the purposes for which the money in the fund may be used. This rule replaces rule 5160-3-03.2, which is being proposed for rescission. The differences between this rule and rescinded rule 5160-3-03.2 are:

- \* The definitions of "Certification requirements," "Deficiency," "Dually participating facility," and "Noncompliance" are being deleted because they are not used in the rule.
- \* Obsolete processes are being deleted.

\* Language is being added to clarify that, if a nursing facility is not actively participating in the Medicaid program and fails to adhere to the terms of a payment agreement or fails to select a payment option within ten days, the facility's fine shall be referred to the Attorney General's Office for collection.

\* The phrase "in which deficiencies are found" is being deleted in order to align with federal regulations. Also, language is being deleted regarding the need for prior approval by CMS for all uses of CMP funds because the requirement is contained in federal regulations.

\* Language is being changed in order to describe the Ohio Department of Medicaid's current process for the disbursement of monies in the resident protection fund.

\* The annual report process is being deleted because it is obsolete.

\* Paragraph headers are being added and paragraphs are being re-numbered and re-lettered as necessary.

Pursuant to Section twelve of Am. Sub. H. B. No. 197 ODM will hold the public hearing for this rule package via teleconference. The phone number and pin and the date and time for this hearing are listed at the top of this Notice. All interested parties are invited to participate in the public hearing. Oral and written testimony will be accepted for this hearing and will be given the same consideration. Those who want to give oral testimony are asked to send an email to [Rules@Medicaid.Ohio.gov](mailto:Rules@Medicaid.Ohio.gov) no later than one hour before the hearing to be added to the witness list. There will be a final call at the end of the hearing for those who wish to offer oral testimony but are not yet on the witness list.

Written comments submitted via fax, United States Postal Service, and email that are received or postmarked no later than the day of the hearing will be accepted as testimony and become part of the hearing record. All testimony will become public record; therefore, the Ohio Department of Medicaid asks that protected health information only be included if the information belongs to the person submitting the testimony or a person for which the submitter is a legal guardian. Written testimony sent via email is highly recommended, all testimony received via email will receive a confirmation of receipt.

A copy of the proposed rule 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/>. Requests for a copy of the proposed rule or comments on the rule 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](mailto:Rules@Medicaid.Ohio.gov).