

PUBLIC HEARING NOTICE  
OHIO DEPARTMENT OF MEDICAID

DATE: November 16, 2020

TIME: 11:00 a.m.

Teleconference Phone Number: 1-614-721-2972

Teleconference Pin: 908569930#

Pursuant to Chapter 119. and sections 5165.02, 5165.153, and 5165.192 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 Amendment

Rule 5160-3-16.4 entitled "Nursing facilities (NFs): covered days and bed-hold days" sets forth the provisions for nursing facility bed hold days. This rule is being proposed for amendment to enact certain flexibilities adopted in emergency rules that were filed as a result of the public health emergency caused by COVID-19. The changes to the rule are:

- In paragraph (D), language is being modified so payments to reserve a bed beyond 30 days but not exceeding 60 days may be made to a nursing facility provider until December 1, 2020 for Medicaid eligible residents in a certified nursing facility that meets the requirements of Section 14 of Amended Substitute House Bill 197 of the 133rd General Assembly.
- In paragraph (F)(2), the word "thirty" is being deleted to align with the modifications being made in paragraph (D).

Rule 5160-3-18 entitled "Nursing facilities (NFs): ventilator program" sets forth the provisions for the nursing facility ventilator program and includes provisions regarding ventilator weaning services. This rule is being proposed for amendment to enact certain flexibilities adopted in emergency rules that were filed as a result of the public health emergency caused by COVID-19.

The changes to the rule are:

- Language is being added so that a respiratory care professional, in addition to a registered nurse, may fulfill the on-site 24 hours per day 7 days per week staffing requirement for nursing facilities that are approved to provide ventilator weaning services.
- Language is being added so that a provider participating in the NF ventilator program does not have to submit quarterly reports if the provider had no ventilator dependent

residents during the reporting period.

Rule 5160-3-19 entitled "Nursing facilities (NFs): relationship of NF services to other covered medicaid services" identifies the covered services generally available to Medicaid recipients and describes the relationship of those services to the services provided by a nursing facility. This rule is being proposed for amendment to enact certain flexibilities adopted in emergency rules that were filed as a result of the public health emergency caused by COVID-19. The changes to the rule are:

- Language changes are being made which allow physician visits to nursing facility residents to be provided via telehealth.

Rule 5160-3-43.3 entitled "Nursing facilities (NFs): calculation of case mix scores" sets forth the provisions for the calculation of case mix scores for nursing facilities. This rule is being proposed for amendment to enact certain flexibilities adopted in emergency rules that were filed as a result of the public health emergency caused by COVID-19. The changes to the rule are:

- Language is being modified to allow the Department of Medicaid to choose whether to assign a penalty score if resident assessment data is not submitted timely by a nursing facility, and when calculating the semiannual facility average Medicaid case mix score.

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).