

## Rule Summary and Fiscal Analysis

### Part A - General Questions

**Rule Number:** 5101:2-16-10

**Rule Type:** Amendment

**Rule Title/Tagline:** Payment rates and procedures for providers of publicly funded child care services.

**Agency Name:** Department of Job and Family Services

**Division:** Division of Social Services

**Address:** 30 E Broad Street Columbus OH 43215

**Contact:** Michael Lynch **Phone:** 614-466-4605

**Email:** Michael.Lynch@jfs.ohio.gov

#### **I. Rule Summary**

1. Is this a five year rule review? No
  - A. What is the rule's five year review date? 10/20/2024
2. Is this rule the result of recent legislation? No
3. What statute is this rule being promulgated under? 119.03
4. What statute(s) grant rule writing authority? 5104.30, 5104.38, 5104.39
5. What statute(s) does the rule implement or amplify? 5104.30, 5104.35, 5104.38, 5104.39
6. Does the rule implement a federal law or rule in a manner that is more stringent or burdensome than the federal law or regulation requires? No
  - A. If so, what is the citation to the federal law or rule? Not Applicable
7. What are the reasons for proposing the rule?

This rule is being proposed to implement new provider payment rates, replace the Step Up To Quality (SUTQ) five-tiered rating system with the bronze, silver, and gold rating system, remove references to Ohio Department of Job and Family Services (ODJFS),

update payment rates for in-home aides to align with the licensed Type B Homes base rate, clarify in-home aides can claim absent days and professional development days, and remove pandemic days from rule.

**8. Summarize the rule's content, and if this is an amended rule, also summarize the rule's changes.**

"Payment rates and procedures for providers of publicly funded child care services" outlines provider payment rates and compensation procedures for publicly funded child care services. The provider rates in Appendix A are being updated, the Step Up to Quality ratings are being replaced with new bronze, silver, and gold rating system, references to the Ohio Department of Job and Family Services (ODJFS) are being removed, in-home aide rates are being increased from minimum wage to the Type B rate, in-home aides can claim absent days and professional development days, and pandemic days are being removed.

**9. Does the rule incorporate material by reference? No**

**10. If the rule incorporates material by reference and the agency claims the material is exempt pursuant to R.C. 121.75, please explain the basis for the exemption and how an individual can find the referenced material.**

*Not Applicable*

**11. If revising or re-filing the rule, please indicate the changes made in the revised or re-filed version of the rule.**

*Not Applicable*

## **II. Fiscal Analysis**

**12. Please estimate the increase / decrease in the agency's revenues or expenditures in the current biennium due to this rule.**

This will have no impact on revenues or expenditures.

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Adoption of the rule will implement an expenditure increase of approximately \$150,000,000 during this current biennium. However, the expenditure of these funds has been accounted for within the current department's budget framework. The expenditure increase is occurring within the appropriation framework of the current budget, as enacted in HB 33.

13. What are the estimated costs of compliance for all persons and/or organizations directly affected by the rule?

No new costs.

14. Does the rule increase local government costs? (If yes, you must complete an RSFA Part B). No

15. Does the rule regulate environmental protection? (If yes, you must complete an RSFA Part C). No

16. If the rule imposes a regulation fee, explain how the fee directly relates to your agency's cost in regulating the individual or business.

Not applicable

### **III. Common Sense Initiative (CSI) Questions**

17. Was this rule filed with the Common Sense Initiative Office? No

18. Does this rule have an adverse impact on business? No

A. Does this rule require a license, permit, or any other prior authorization to engage in or operate a line of business? No

B. Does this rule impose a criminal penalty, a civil penalty, or another sanction, or create a cause of action, for failure to comply with its terms? No

C. Does this rule require specific expenditures or the report of information as a condition of compliance? No

D. Is it likely that the rule will directly reduce the revenue or increase the expenses of the lines of business of which it will apply or applies? No

### **IV. Regulatory Restriction Requirements under S.B. 9. Note: This section only applies to agencies described in R.C. 121.95(A).**

19. Are you adding a new or removing an existing regulatory restriction as defined in R.C. 121.95? Yes

- A. How many new regulatory restrictions do you propose adding to this rule? 0**
- B. How many existing regulatory restrictions do you propose removing from this rule? 34**

**5101:2-16-10(B)(1)**

The payment rate for a provider not participating in SUTQ shall be the lower of these two:

**5101:2-16-10(B)(2)**

The rate determined in paragraph (B)(1) of this rule shall be the base rate used to calculate any applicable additional payment amounts pursuant to paragraphs (D), (F) and (G) of this rule.

**5101:2-16-10(C)(1)**

The base payment rate for a provider participating in SUTQ shall be the lower of these two:

**5101:2-16-10(C)(2)**

Once the rate is determined in paragraph (C)(1) of this rule, an additional per cent shall be added, as follows:

**5101:2-16-10(C)(2)(a)**

One-star rated programs shall be paid an additional five per cent.

**5101:2-16-10(C)(2)(b)**

Two-star rated programs shall be paid an additional eighteen per cent.

**5101:2-16-10(C)(2)(c)**

Three-star rated programs shall be paid an additional twenty-one per cent.

**5101:2-16-10(C)(2)(d)**

Four-star rated programs shall be paid an additional twenty-nine per cent.

**5101:2-16-10(C)(2)(e)**

Five-star rated programs shall be paid an additional thirty-five per cent.

**5101:2-16-10(D)(1)**

Providers who are accredited by an ODJFS approved accrediting body as listed at <http://jfs.ohio.gov/cdc/childcare.stm> shall be paid an additional ten per cent of the applicable payment rate established in paragraph (B)(1) of this rule or

paragraph (C)(1) of this rule. This rate shall apply for all children receiving publicly funded child care services.

**5101:2-16-10(D)(2)**

Providers who are accredited and also participating in SUTQ shall be paid either the per cent additional payment in paragraph (C)(2) of this rule or the per cent additional payment in paragraph (D)(1) of this rule, whichever is higher.

**5101:2-16-10(E)(1)**

School-age rates shall be in effect during the school year as defined in rule 5101:2-16-01 of the Administrative Code.

**5101:2-16-10(E)(2)**

Summer school-age rates shall be in effect outside of the school year as defined in rule 5101:2-16-01 of the Administrative Code.

**5101:2-16-10(F)(1)**

Providers who care for children during non-traditional hours shall be paid an additional five per cent of the applicable payment rate established in paragraph (B)(1) or (C)(1) of this rule.

**5101:2-16-10(F)(2)**

This rate shall apply to the child for all hours of care during a week when any non-traditional hours of care are provided.

**5101:2-16-10(F)(3)**

The payment shall not exceed the provider's customary charge to the public.

**5101:2-16-10(G)(1)**

Providers who care for a child that the caretaker and the county agency have identified as having special needs pursuant to rule 5101:2-16-02 of the Administrative Code shall be paid an additional five per cent of the applicable payment rate established in paragraph (B)(1) or (C)(1) of this rule. The payment shall not exceed the provider's customary charge to the public.

**5101:2-16-10(G)(3)**

Payment enhancements or additional percentages shall only apply to the hours of care for the child with special needs.

**5101:2-16-10(H)(2)**

Payment shall be calculated using the total number of child care hours per week, that have been approved by the caretaker, if applicable, and submitted by the provider in the automated child care system.

**5101:2-16-10(H)(2)(b)**

Payment shall not be made for hours that exceed the child's category of authorization.

**5101:2-16-10(I)(1)**

Annually, a provider with a valid provider agreement as of January first shall receive a twenty-five dollar registration fee for each child who received publicly funded child care from the provider in the previous calendar year. For approved day camps, the camp shall have had a valid provider agreement as of August thirtieth of the previous year.

**5101:2-16-10(J)(3)**

A provider may be paid for an absent day for which a child is eligible. An absent day shall not be paid prior to actual attendance at the authorized program. The attendance shall be documented by a recorded in time and a recorded out time, and shall have occurred on any day in the previous rolling twelve months.

**5101:2-16-10(K)(4)**

Professional development days shall not be used on any holiday listed in paragraph (F)(5) of this rule.

**5101:2-16-10(L)**

What is not included in the payment for publicly funded child care services?

The provider's publicly funded child care payment shall not include:

**5101:2-16-10(M)(1)**

A provider shall make a caretaker aware of fees not covered by publicly funded child care payments for which the caretaker may be responsible

**5101:2-16-10(M)(1)(a)**

A provider shall have a signed agreement with the caretaker for the payment of these fees.

**5101:2-16-10(M)(2)**

A provider shall not ask a caretaker to pay the difference between the provider's payment rate and the provider's customary charge to the public when the customary charge is higher.

## 5101:2-16-10(M)(3)

A provider shall not ask a caretaker to pay the difference between the registration fee paid for the child by ODJFS and the provider's customary registration fee charge to the public when the customary registration fee is higher.

## 5101:2-16-10(N)(1)

An in-home aide shall be paid an hourly rate that is equal to the state minimum wage for forty or fewer hours in a week. An in-home aide pilot program may be operated in participating counties detailed in a child care letter published by ODJFS.

## 5101:2-16-10(N)(2)

A rate of one and one-half times the state minimum wage shall be paid for hours in excess of forty in a week.

## 5101:2-16-10(N)(3)

The total payment shall include child care services provided to all of the authorized child(ren) in the caretaker's home.

## 5101:2-16-10(N)(4)

An in-home aide shall not claim absent days or professional development days for children receiving publicly funded child care services.

## 5101:2-16-10(A)(2)

Payment rates shall apply to all providers of publicly funded child care.

## 5101:2-16-10(I)(2)

The child must have received publicly funded child care from the provider for at least one day during January through December of the previous year

- C. If you are not removing existing regulatory restrictions from this rule, please list the rule number(s) from which you are removing restrictions.**
- D. Please justify the adoption of the new regulatory restriction(s).**

Not Applicable