

Rule Summary and Fiscal Analysis (Part A)**Department of Job and Family Services**

Agency Name

Division of Medical Assistance

Division

Mike Lynch

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5101:3-1-06.5

Rule Number

AMENDMENT

TYPE of rule filing

Rule Title/Tag Line

Home and community based service waivers: assisted living.**RULE SUMMARY**

1. Is the rule being filed consistent with the requirements of the RC 119.032 review? **Yes**

2. Are you proposing this rule as a result of recent legislation? **Yes**

Bill Number: **HB153**General Assembly: **129**Sponsor: **Representative Amstutz**

3. Statute prescribing the procedure in accordance with the agency is required to adopt the rule: **119.03**

4. Statute(s) authorizing agency to adopt the rule: **5111.85, 5111.89**

5. Statute(s) the rule, as filed, amplifies or implements: **5111.85, 5111.89**

6. State the reason(s) for proposing (i.e., why are you filing,) this rule:

This rule is being proposed for revision to modify the maximum rate of reimbursement to providers in accordance with the funding levels appropriated to the Ohio Department of Job and Family Services in Am. Sub. HB 153 (129th GA).

This rule is also being proposed for five year rule review.

7. If the rule is an AMENDMENT, then summarize the changes and the content

of the proposed rule; If the rule type is RESCISSION, NEW or NO CHANGE, then summarize the content of the rule:

This rule establishes the maximum rate of reimbursement for Assisted Living waiver services.

The rule is being amended to:

- 1) Clarify in paragraph (B)(1) that waiver program eligibility criteria is in chapter 5101:3-33 of the OAC;
- 2) Establish that the maximum rates of reimbursement listed in Appendix A are effective on July 1, 2011;
- 3) Incorporate new language in paragraph (B)(4) describing the billing maximum for the community transition service.

8. If the rule incorporates a text or other material by reference and the agency claims the incorporation by reference is exempt from compliance with sections 121.71 to 121.74 of the Revised Code because the text or other material is **generally available** to persons who reasonably can be expected to be affected by the rule, provide an explanation of how the text or other material is generally available to those persons:

This rule incorporates one or more references to the Ohio Revised Code. This question is not applicable to any incorporation by reference to the Ohio Revised Code because such reference is exempt from compliance with RC 121.71 to 121.74 pursuant to RC 121.76(A)(1).

This rule incorporates one or more references to another rule or rules of the Ohio Administrative Code. This question is not applicable to any incorporation by reference to another OAC rule because such reference is exempt from compliance with RC 121.71 to 121.74 pursuant to RC 121.76(A)(3).

9. If the rule incorporates a text or other material by reference, and it was **infeasible** for the agency to file the text or other material electronically, provide an explanation of why filing the text or other material electronically was infeasible:

Not Applicable

10. If the rule is being **rescinded** and incorporates a text or other material by reference, and it was **infeasible** for the agency to file the text or other material, provide an explanation of why filing the text or other material was infeasible:

Not Applicable.

11. If **revising** or **refiling** this rule, identify changes made from the previously filed version of this rule; if none, please state so:

Not Applicable.

12. 119.032 Rule Review Date: **7/14/2011**

(If the rule is not exempt and you answered NO to question No. 1, provide the scheduled review date. If you answered YES to No. 1, the review date for this rule is the filing date.)

NOTE: If the rule is not exempt at the time of final filing, two dates are required: the current review date plus a date not to exceed 5 years from the effective date for Amended rules or a date not to exceed 5 years from the review date for No Change rules.

FISCAL ANALYSIS

13. Estimate the total amount by which *this proposed rule* would **increase / decrease** either **revenues / expenditures** for the agency during the current biennium (in dollars): Explain the net impact of the proposed changes to the budget of your agency/department.

This will have no impact on revenues or expenditures.

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Beginning July 1, 2011, the legislature appropriated funds directly to ODJFS to pay for Assisted Living waiver services and local administration. Previously, the Ohio Department of Aging received this appropriation in its budget. The funding appropriated to ODJFS assumes the rate changes contained in this rule are effective on July 1, 2011. Implementing this change will not impact ODJFS' expenditures on Assisted Living waiver services; however ODJFS estimates that the proposed amendments to this rule will reduce overall Assisted Living waiver program expenditures by approximately \$1.9 million in SFY 2012 and \$1.9 million in SFY 2013.

14. Identify the appropriation (by line item etc.) that authorizes each expenditure necessitated by the proposed rule:

600-525

15. Provide a summary of the estimated cost of compliance with the rule to all directly affected persons. When appropriate, please include the source for your information/estimated costs, e.g. industry, CFR, internal/agency:

The changes in this rule reduce Medicaid reimbursement to providers. To the extent that this reduction in reimbursement is a cost of compliance, providers will be subject to a cost of compliance when they bill for the affected services. The department cannot provide an estimate of the impact in reimbursement, because the amount of the reduction will vary from provider to provider, depending on their business model and the frequency at which they bill for services rendered.

16. Does this rule have a fiscal effect on school districts, counties, townships, or municipal corporations? **Yes**

You must complete Part B of the Rule Summary and Fiscal Analysis in order to comply with Am. Sub. S.B. 33 of the 120th General Assembly.

17. Does this rule deal with environmental protection or contain a component dealing with environmental protection as defined in R. C. 121.39? **No**

Rule Summary and Fiscal Analysis (Part B)

1. Does the Proposed rule have a fiscal effect on any of the following?

(a) School Districts	(b) Counties	(c) Townships	(d) Municipal Corporations
No	Yes	Yes	Yes

2. Please provide an estimate in dollars of the cost of compliance with the proposed rule for school districts, counties, townships, or municipal corporations. If you are unable to provide an estimate in dollars, please provide a written explanation of why it is not possible to provide such an estimate.

If an Assisted Living provider is also a county, township, or municipal corporation, it may be reimbursed less for delivering Assisted Living services as a result of the rate changes in the proposed rule.

The actual cost for each provider cannot be estimated because the cost will vary by provider depending on the service provided, their business model, and the frequency in which services are provided.

3. If the proposed rule is the result of a federal requirement, does the proposed rule exceed the scope and intent of the federal requirement? **No**

4. If the proposed rule exceeds the minimum necessary federal requirement, please provide an estimate of, and justification for, the excess costs that exceed the cost of the federal requirement. In particular, please provide an estimate of the excess costs that exceed the cost of the federal requirement for (a) school districts, (b) counties, (c) townships, and (d) municipal corporations.

Not Applicable.

5. Please provide a comprehensive cost estimate for the proposed rule that includes the procedure and method used for calculating the cost of compliance. This comprehensive cost estimate should identify all of the major cost categories including, but not limited to, (a) personnel costs, (b) new equipment or other capital costs, (c) operating costs, and (d) any indirect central service costs.

If an Assisted Living provider is also a county, township, or municipal corporation, it may be reimbursed less for delivering Assisted Living services as a result of the

rate changes in the proposed rule.

The comprehensive costs for each provider cannot be estimated because the cost will vary by provider depending on the service provided, their business model, and the frequency in which services are provided.

(a) Personnel Costs

If an Assisted Living provider is also a county, township, or municipal corporation, it may be reimbursed less for delivering Assisted Living services as a result of the rate changes in the proposed rule.

The actual impact on personnel costs for each provider cannot be estimated because the cost will vary by provider depending on the service provided, their business model, and the frequency in which services are provided.

(b) New Equipment or Other Capital Costs

Not Applicable.

(c) Operating Costs

If an Assisted Living provider is also a county, township, or municipal corporation, it may be reimbursed less for delivering Assisted Living services as a result of the rate changes in the proposed rule.

The actual impact on operating costs for each provider cannot be estimated because the cost will vary by provider depending on the service provided, their business model, and the frequency in which services are provided.

(d) Any Indirect Central Service Costs

If an Assisted Living provider is also a county, township, or municipal corporation, it may be reimbursed less for delivering Assisted Living services as a result of the rate changes in the proposed rule.

The actual impact on indirect central service costs for each provider cannot be estimated because the cost will vary by provider depending on the service provided, their business model, and the frequency in which services are provided.

(e) Other Costs

If an Assisted Living provider is also a county, township, or municipal corporation, it may be reimbursed less for delivering Assisted Living services as a result of the rate changes in the proposed rule.

Other costs cannot be estimated because the cost will vary by provider depending on the service provided, their business model, and the frequency in which services are provided.

6. Please provide a written explanation of the agency's and the local government's ability to pay for the new requirements imposed by the proposed rule.

Not Applicable.

7. Please provide a statement on the proposed rule's impact on economic development.

If an Assisted Living provider is also a county, township, or municipal corporation, it may be reimbursed less for delivering Assisted Living services as a result of the rate changes in the proposed rule.

The impact of the rule on economic development cannot be estimated.