

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

Agency Name

Division of Medical Assistance

Division

Nancy Van Kirk

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5101:3-46-04

Rule Number

NEW

TYPE of rule filing

Rule Title/Tag Line

Ohio home care waiver: definitions of the covered services and provider requirements and specifications.**RULE SUMMARY**

1. Is the rule being filed consistent with the requirements of the RC 119.032 review? **No**

2. Are you proposing this rule as a result of recent legislation? **No**

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**

5. Statute(s) the rule, as filed, amplifies or implements: **5111.01, 5111.02, 5111.85**

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

This rule is being proposed to implement part of the Ohio Home Care Program redesign. It replaces OAC rule 5101:3-12-07, in part.

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 sets forth the definitions of the services covered by the Ohio Home Care

Waiver. This rule also sets forth the provider requirements and specifications for the delivery of Ohio Home Care Waiver services.

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 dated references to the Code of Federal Regulations (CFR). This question is not applicable to any dated incorporation by reference to the CFR because such reference is exempt from compliance with ORC 121.71 to 121.74 in accordance with ORC 121.75(D).

This rule incorporates one or more dated references to federal laws. This question is not applicable to those references in this rule because such references are exempt from compliance with ORC 121.71 to 121.74 pursuant to ORC 121.76(B)(2).

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

This rule incorporates one or more references to an ODJFS form or forms. Each cited ODJFS form is generally available to persons affected by this rule via the "Info Center" link on the ODJFS web site (<http://jfs.ohio.gov/>) in accordance with ORC 121.75(E).

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:

This rule is being revised to add references to the definition of "legally responsible family member" found in paragraph (EE) of rule 5101:3-45-01 of the Administrative Code to paragraphs (A)(4)(b), (B)(5)(d), (F)(4)(f), (F)(5)(e), and (G)(1) of this rule.

This rule is being revised to delete the term "foster parent" from paragraphs (A)(4)(c), (B)(5)(e), and (F)(5)(f) of this rule and replace it with the term "foster caregiver."

This rule is being revised to add language in the definition of Home Modification Services found in paragraph (E)(1) to state that, "Home modification services shall not exceed ten thousand dollars within a twelve-month period per consumer."

This rule is being revised to delete the term "foster parents" from paragraph (F)(4)(g) and replace it with the term "foster caregivers."

This rule is being revised to delete the words "per program year" from paragraphs (G)(1)(a) and (G)(1)(b), and replace them with the words "within a twelve-month period..."

This rule is being revised to delete the words "regardless of payor source" previously found at the end of paragraph (H)(3)(c).

This rule is being refiled. The changes are as follows: Paragraph (A)(5) has been deleted and replaced with new paragraphs (A)(5)(a) and (A)(5)(b) in order to clarify the responsibilities of non-agency LPNs at the direction of an RN.

In paragraph (A)(6)(g), "visit between the LPN, the consumer and the directing RN" has been deleted and replaced with, "visits between the LPN and the directing RN, and documenting the face-to-face visits between the LPN, the consumer and the directing RN." This change in clinical documentation requirements corresponds to the new language in paragraphs (A)(5)(a) and (A)(5)(b).

Paragraphs (B)(6)(c) and (B)(6)(d) have been deleted and replaced with a new paragraph (B)(6)(c), clarifying the supervisory responsibilities of Medicare-certified and otherwise-accredited home health agencies providing personal care aide services.

12. 119.032 Rule Review Date:

(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.

\$0.00

This proposed rule will not change the agency's projected budget during the current biennium.

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

Not applicable.

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:

No new costs.

16. Does this rule have a fiscal effect on school districts, counties, townships, or municipal corporations? **No**

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