

Rule Summary and Fiscal Analysis (Part A)**Ohio Department of Medicaid**

Agency Name

Eligibility

Division

Tommi Potter

Contact

50 Town St 4th floor Columbus OH 43218-2709

Agency Mailing Address (Plus Zip)

614-752-3877

Phone

614-995-1301

Fax

tommi.potter@medicaid.ohio.gov

Email

5160:1-6-07.1

Rule Number

NEW

TYPE of rule filing

Rule Title/Tag Line

Medicaid: post-eligibility treatment of income for individuals receiving services through a home and community-based services (HCBS) waiver or the program of all-inclusive care for the elderly (PACE).**RULE SUMMARY**

1. Is the rule being filed for five year review (FYR)? **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: **111.15**
4. Statute(s) authorizing agency to adopt the rule: **5160.02, 5163.02**
5. Statute(s) the rule, as filed, amplifies or implements: **5160.02, 5163.02**
6. State the reason(s) for proposing (i.e., why are you filing,) this rule:

To update policy relating to the administration of the Medicaid program. This new rule entitled "Medicaid: post-eligibility treatment of income for individuals receiving services through a home and community-based services (HCBS) waiver or the program of all-inclusive care for the elderly (PACE)" is replacing rescinded rules 5160:1-3-04.3 "Medicaid: determining patient liability" and 5160:1-3-04.4 "Medicaid: income and patient liability determinations for individuals under the

assisted living home and community based waiver."

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 describes the process for calculating an individual's post-eligibility treatment of income (PETI), commonly referred to as patient liability or share of cost when the individual is not living in a medical institution. This rule applies to an individual who is both eligible for medical assistance under the special income level (SIL) and is receiving HCBS waiver or PACE services. Differences between this new rule and the rules that are being rescinded are that the new rule describes PETI for all HCBS and PACE individuals. Previously the assisted living HCBS waiver had its own rule which repeated referenced calculations in a different patient liability rule. This new rule has been updated so that all calculations involved in PETI for HCBS or PACE are in the rule. Changes to the rule include an updated list of federally required deductions from the PETI calculation and updated rule references.

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 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).

This rule incorporates one or more dated references to a federal act or acts. This question is not applicable to any dated incorporation by reference to a federal act because such reference is exempt from compliance with RC 121.71 to 121.74 in accordance with RC 121.75(C).

This rule incorporates one or more dated references to the U.S. Code. This question is not applicable to any dated incorporation by reference to the U.S. Code because such reference is exempt from compliance with RC 121.71 to 121.74 in accordance with RC 121.75(A).

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 RC 121.71 to 121.74 in accordance with RC 121.75(D).

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. If applicable, indicate each specific paragraph of the rule that has been modified:

Subparagraph (G)(4)(c) has been revised for accuracy. The word "transferred" was replaced with "allocated".

Subparagraph (G)(2)(g) was revised for accuracy. "Including aid and attendance" and "surviving spouse" were added. The subparagraph now reads, "Veterans administration pensions, including aid and attendance benefits, up to the amount of ninety dollars per month, paid to veterans or their surviving spouse, if any, who are residing in a nursing facility or are receiving HCBS waiver services. This exclusion applies to:"

12. Five Year Review (FYR) 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 increase expenditures.

\$170,625.00

SFY 2017 Estimated State Share: \$13,125

SFY 2018 Estimated State Share: \$157,500

To comply with federal requirements, additional income types will now be excluded in the determination of patient liability for institutionalized individuals. Individuals who receive these income types will have a lower share of cost after the income is excluded from the patient liability determination. The exclusion of additional income types will result in a greater cost for the Ohio Department of Medicaid.

This estimate is duplicative of the costs listed in Rule Summary and Fiscal Analysis (Part A) of OAC 5160:1-6-07 which is also included in ERF Package 169777. The estimate is a combination of costs for both rules.

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

651525

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:

Not Applicable.

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**

S.B. 2 (129th General Assembly) Questions

18. Has this rule been filed with the Common Sense Initiative Office pursuant to R.C. 121.82? **No**

19. Specific to this rule, answer the following:

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**

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	No	No

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.

The Ohio Department of Medicaid (ODM) supplies funding to Ohio's 88 counties through the Ohio Department of Job and Family Services, Bureau of County Finance and Technical Assistance. This funding is intended to properly supply counties with enough funding to conduct eligibility determinations and casework for the Medicaid Program. State funds are supplied for matching through a mechanism called the Income Maintenance (IM) Allocation. As expenditures are charged the federal portion of these expenditures is also supplied to the counties. Each county operates daily at different work levels and funds the work done locally differently. Historically counties have not reported spending in excess of allocation and it is not expected that this change to policy would greatly change that dynamic.

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.

The Department of Medicaid anticipates that counties, specifically County Departments of Job and Family Services, will incur training costs. However, each county operates daily at different work levels and funds the work done locally differently. Historically counties have not reported spending in excess of allocation and it is not expected that this change to policy would greatly change that dynamic.

(a) Personnel Costs

There will be an increase in training costs as a result of the new Medicaid eligibility rules. However, each county operates daily at different work levels and funds the work done locally differently. Historically counties have not reported spending in excess of allocation and it is not expected that this change to policy would greatly change that dynamic.

(b) New Equipment or Other Capital Costs

The Department of Medicaid does not expect any changes in capital costs.

(c) Operating Costs

Counties may incur increased operating costs. However, each county operates daily at different work levels and funds the work done locally differently. Historically counties have not reported spending in excess of allocation and it is not expected that this change to policy would greatly change that dynamic.

(d) Any Indirect Central Service Costs

Counties may incur increased indirect central service costs. However, each county operates daily at different work levels and funds the work done locally differently. Historically counties have not reported spending in excess of allocation and it is not expected that this change to policy would greatly change that dynamic.

(e) Other Costs

The Department of Medicaid does not know whether counties will incur increased additional costs. There will be an increase in training costs as a result of the new Medicaid eligibility rules. However, each county operates daily at different work levels and funds the work done locally differently. Historically counties have not reported spending in excess of allocation and it is not expected that this change to policy would greatly change that dynamic.

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.

The Department of Medicaid has determined no new requirements are being imposed by the proposed rule rather clarifications of the current process.

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

The Department of Medicaid does not expect the proposed rules to have an impact on economic development.