

**PUBLIC HEARING NOTICE
OHIO DEPARTMENT OF JOB AND FAMILY SERVICES**

DATE: November 17, 2017
TIME: 10 a.m.
LOCATION: Room 3110B, Rhodes State Office Tower
30 East Broad St., Columbus, Ohio 43215

Pursuant to sections 3125.25 and 5101.35 and Chapter 119. of the Ohio Revised Code, the director of the Ohio Department of Job and Family Services gives notice of the department's intent to consider the amendment and rescission of the rules as identified below and of a public hearing, thereon. The amended rules are in accordance with the five-year review, in addition, these rules comply with recent Code of Federal Regulation changes.

Rule 5101:6-2-35, entitled "State Hearings: Notice of a Managed Care Plan's Denial, Reduction, Suspension, or Termination of a Medical Service," is being proposed for amendment. This rule sets forth when notices are issued based on a managed care plan or "MyCare Ohio" plan's denial, reduction, suspension, or termination of a medical service. This rule is amended to clarify the managed care plan or "MyCare Ohio" plan is responsible to issue notice, along with the appeal resolution decision, as prescribed in rules 5160-26-08.4 and 5160-58-08.4 of the Administrative Code. Updates to form names and revision dates were also made.

Rule 5101:6-2-50, entitled "State Hearings: Notice of Determinations Concerning Spouses Separated by Institutionalization," is being proposed for rescission. This rule sets forth notices issued based on an agency's review of eligibility for institutionalized Medicaid. This rule is rescinded at the request of the Ohio Department of Medicaid, who has taken over responsibility for the now obsolete notices and forms within this rule.

Rule 5101:6-3-01, entitled "State Hearings: Grounds for Requesting a State Hearing," is being proposed for amendment. This rule sets forth the process for requesting a state hearing for family services and public assistance programs. This rule describes the process for requesting a state hearing for family services and public assistance programs. The rule is being amended to specify closing fair hearing benefits is not grounds for requesting a state hearing or for issuing notice. Language related to adverse benefit determination is added to clarify federal requirements, while other language is removed to comply with federal rule changes related to Medicaid managed care plans and "MyCare Ohio" plans. For reference, adverse benefit determination notice, grievance, and appeal requirements are found in rule 5160-26-08.4 of the Administrative Code for managed care plans and rule 5160-58-08.4 of the Administrative Code for MyCare Ohio plans. Finally, in paragraphs (C)(2) and (C)(7), two grounds for child support services were eliminated, as these grounds are handled administratively through the child support enforcement agencies (CSEA), and a clarification was made to explain noncustodial parents can request a state hearing when the CSEA denies a modification request.

Rule 5101:6-3-02, entitled "State Hearings: State Hearing Requests," is being proposed for amendment. This rule sets forth the basic elements of a valid state hearing request and includes deadlines for requesting a state hearing, due process rights, authorization to represent, rights under limited English proficiency and equal employment opportunity (EEO). The rule is being amended to specify acceptable written authorization legal documents and removes attorney permission to represent an individual without advance proper authorization. Language is added to clarify written authorization is nontransferable under certain circumstances. Also, language has been modified in accordance with federal regulations that now require a 120-day state hearing request time limit from the date of a managed care plan or "MyCare Ohio" plan adverse benefit determination appeal resolution. The 90-day requirement is still in effect for all other programs and issues.

Rule 5101:6-4-01, entitled "State Hearings: Continuation of Benefits When a State Hearing is Requested," is being proposed for amendment. This rule sets forth the manner in which continuation of benefits occurs and deadlines associated with receiving continued benefits. The amended rule clarifies all adverse benefit determination notices and subsequent grievance or appeal resulting from that notice shall be administered through the managed care plans (MCPs) or MyCare Ohio plans (MCOPs) before accessing the Bureau of State Hearings appeal process. Language is also added to offer the member an opportunity to waive a right to continue to receive benefits pending the outcome of a state hearing. Adverse benefit determination notice, grievance, and appeal requirements are found in rule 5160-26-08.4 of the Administrative Code for managed care plans and rule 5160-58-08.4 of the Administrative Code for MyCare Ohio plans.

Rule 5101:6-5-01, entitled "State Hearings: Procedures Prior to the State Hearing," is being proposed for amendment. This rule sets forth the process for submitting state hearing requests to the Bureau of State Hearings (BSH), completing appeal summaries, performing county conferences, and other legal obligations of the parties. The amended rule clarifies MCPs and MCOPs shall notify the Bureau of State Hearings within 3 calendar days when the member has not exhausted the appeal process pursuant to rule 5160-26-08.4 of the Administrative Code for managed care plans and rule 5160-58-08.4 of the Administrative Code for MyCare Ohio plans. Language was removed throughout the rule regarding an action or lack of action by a managed care plan to also come into compliance with federal regulations.

Rule 5101:6-5-02, entitled "State Hearings: Postponement of the State Hearing," is being proposed for amendment. This rule sets forth the process for postponing a state hearing. The rule is amended to add clarifying language that one postponement is permitted for food assistance issues, and to offer the managed care plans and "MyCare Ohio" plans a one-time postponement for a state hearing.

Rule 5101:6-5-03, entitled "State Hearings: Denial and Dismissal of State Hearing Request," is being proposed for amendment. This rule sets forth the circumstances under which a state hearing request may be denied or dismissed. The amended rule states individuals are required to exhaust appeal remedies through other entities before coming

to the Bureau of State Hearings for assistance. In circumstances where the individual has not utilized the initial appeal process, a state hearing request shall be denied after a state hearing is scheduled, which aligns with federal and state requirements.

Rule 5101:6-6-01, entitled "State Hearings: Scheduling and Attendance," is being proposed for amendment. This rule sets forth the process for scheduling state hearings and outlines who is considered a party to the state hearing. The amended rule removes all references to action or lack of action and to the Bureau of Managed Care. Language is also changed to allow the Ohio Department of Medicaid to choose whether to receive notices from the Bureau of State Hearings.

Rule 5101:6-6-02, entitled "State Hearings: Rights and Responsibilities of the Participants," is being proposed for amendment. This rule sets forth the rights and responsibilities of participants to the state hearing. The amended rule changes the ordering of paragraph (A) to align with Legislative Services Commission (LSC) requirements. Language is added to clarify details around parties declining or not having to take the oath or affirmation.

Rule 5101:6-7-01, entitled "State Hearings: State Hearing Decisions," is being proposed for amendment. This rule sets forth the process for drafting and finalizing a state hearing decision. The amended rule adds MyCare Ohio to the expedited hearing process, to receiving notification, and to the binding effect of a state hearing decision. Language is removed regarding action or lack of action by managed care plans.

Rule 5101:6-7-03, entitled "State Hearings: Implementation of the Hearing Decision," is being proposed for amendment. This rule sets forth the process for implementing a state hearing decision and outlines obligations for local agencies with respect to compliance, overpayments, or underpayments. The amended rule removes references to the Bureau of Managed Care and leaving Ohio Department of Medicaid as the responsible party to assure timely compliance with the state hearing decision. Language is removed requiring the same time line for public assistance and food assistance to come into compliance with instruction from Food and Nutrition Services.

Rule 5101:6-8-01, entitled "State Hearings: Administrative Appeal of the State Hearing Decision," is being proposed for amendment. This rule sets forth the process for requesting an administrative appeal, continuing benefits, and drafting and finalizing the administrative appeal decision. The amended rule removes references to action or lack of action by a managed care plan, removes references to the Bureau of Managed Care and leaving in Ohio Department of Medicaid.

Rule 5101:6-9-01, entitled "State Hearings: Further Appeal Rights," is being proposed for amendment. This rule sets forth the process for requesting a judicial review after all departmental remedies have been exhausted and includes administrative implementation of the court order. The amended rule removes references to action or lack of action by a managed care plan, removes references to the Bureau of Managed Care and leaving in Ohio Department of Medicaid.

A copy of the proposed rule(s) is available, without charge, to any person affected by the rule(s) at the address listed below. The rule(s) is also available on the internet at <http://www.registerofohio.state.oh.us/>. A public hearing on the proposed rule(s) will be held at the date, time, and location listed at the top of this notice. Either written or oral testimony will be taken at the public hearing. Additionally, written comments submitted or postmarked no later than the date of the public hearing will be treated as testimony.

Requests for a copy of the proposed rule(s) or comments on the rule(s) should be submitted by mail to the Ohio Department of Job and Family Services, Office of Legal and Acquisition Services, 30 East Broad Street, 31st Floor, Columbus, Ohio 43215-3414, by fax at (614) 752-8298, or by e-mail at rules@jfs.ohio.gov.