

**FEDERAL MEDICAID NOTICE AND PUBLIC HEARING NOTICE
OHIO DEPARTMENT OF MEDICAID**

DATE: May 15, 2015
TIME: 12:00 PM
LOCATION: 50 W. Town St., Room A501
Columbus, Ohio 43215

Pursuant to section 5164.02 and Chapter 119. of the Ohio Revised Code, and 42 CFR 447.205, the director of the Ohio Department of Medicaid gives notice of the department's intent to consider the adoption, amendment, or rescission of the rules as identified below and of a public hearing thereon. It is estimated that changes to these rules will have no effect on the annual aggregate Medicaid expenditures.

Proposed Amendments - Rules 5160-12-01 through 5160-12-08 of the Administrative Code set forth the requirements and reimbursement provisions for Home Health (HH), Private Duty Nursing (PDN), RN Assessment, and RN Consultation services. Rules 5160-12-01 through 5160-12-07 are being proposed due to a five-year rule review, while rule 5160-12-08 is a new rule. These rules are being amended, rescinded, and/or filed as new as indicated below:

- Names of state departments are being updated from the Ohio Department of Job and Family Services (ODJFS) to the Ohio Department of Medicaid (ODM), and the Ohio Department of Mental Retardation and Developmental Disabilities (ODMRDD) to the Ohio Department of Developmental Disabilities (DODD).
- Updates are being made to reflect changes in terminology, citations and form names.
- Language throughout the rules has been non-substantively restructured, replaced or, in the case of redundancies, eliminated for clarity purposes.

OAC 5160-12-01, entitled "Home health services; provision requirements, coverage and service specification" specifies the provisions that govern Medicaid home health services as set forth in Chapter 5160-12 of the Administrative Code. Amendments proposed to this rule include:

- Permissive language was inserted in subparagraph (C)(2) to allow for more than fourteen hours per week of home health nursing and home health aide services with prior approval by ODM.
- The definition of "habilitative care" in paragraph (E)(5)(b) was revised to align with the definition used by the Department of Aging.
- The definition of "home health nursing" in paragraph G was revised to clarify provider requirements.
- Language was added in (G)(1) to distinguish the nursing tasks and activities to be performed only by an RN compared to those that may be performed by an RN or LPN.
- Revisions were made in sub-paragraph G(2) for clarification and consistency purposes, and language was added to detail some of the services that are (and are not) covered.

OAC 5160-12-02, entitled "Private duty nursing services: provision requirements, coverage and service specification" specifies the provisions that govern Private Duty Nursing (PDN) services as set forth in Chapter 5160-12 of the Administrative Code. Amendments proposed to this rule include:

- A new paragraph (C) was inserted into rule to distinguish specific nursing tasks and activities to be performed only by an RN.
- Paragraph (D) was added to list services not covered under PDN.
- Paragraph (F) was added to align with similar language in 5160-12-02.3 and will allow for the delivery of PDN services in emergency cases when the provider has an existing authorization.
- Sub-paragraph (E)(4) was deleted from rule to eliminate redundancy.
- Sub-paragraph (F)(3) was merged with sub-paragraph (I)(4) to allow for the permissive use versus the required use of an U5 modifier when billing for private duty nursing services to a child.

OAC 5160-12-02.1, entitled "Provision for consumers enrolled in and providers who provide the core plus benefit package services" is proposed for rescission as the benefits are no longer offered.

OAC 5160-12-02.3, entitled "Private duty nursing: procedures for service authorization" details how authorization for private duty nursing services is obtained. Amendments proposed to this rule include:

- Subparagraphs (A)(1) and (A)(2) were merged.
- Paragraph (F) was deleted to remove the provision of ODM prior authorization for visits that are four hours or less in length as the provision is incongruent with the definition of private duty nursing services.

OAC 5160-12-03, entitled "Medicare certified home health agencies qualifications and requirements" describes the requirements for a MCHHA to provide home health services. Amendments proposed to this rule include:

- Language and references were updated.
- Language was added to sub-paragraph (B)(9) to clarify record retention requirements are subject to monitoring by the Ohio Department of Medicaid.
- Paragraphs (B) and (C) were merged.

OAC 5160-12-03.1, entitled "Non-agency nurses and otherwise-accredited agencies: qualifications and requirements" sets forth the qualifications and requirements for non-agency nurses and/or nurses employed by an otherwise-accredited agency to provide PDN services. Amendments proposed to this rule include:

- Paragraphs were re-lettered, and language was added clarifying that non-agency nurses are required to comply with applicable laws and regulations.

OAC 5160-12-04, entitled "Home health and private duty nursing: visit policy" sets forth requirements for home health and private duty nursing visits. Amendments proposed to this rule include clarifying that a two hour lapse in time is necessary between the provision of home health nursing and private duty nursing.

OAC 5160-12-05, entitled "Reimbursement: home health services" sets forth requirements for the reimbursement of home health services. Amendments proposed to this rule include the introduction of a new rate setting methodology and reimbursement rates for home health nursing and home health aide services provided by agency and non-agency providers, nurses, including new rates and rate modifiers set for registered nurses (RNs) and licensed practical nurses (LPNs).

OAC 5160-12-06, entitled "Reimbursement: private duty nursing services" sets forth requirements for the reimbursement of private duty nursing services. Amendments proposed to this rule include the introduction of a new rate setting methodology and reimbursement rates for private duty nurses, including new rates and rate modifiers set for registered nurses (RNs) and licensed practical nurses (LPNs) affiliated with agency and non-agency providers.

OAC 5160-12-07, entitled "Reimbursement: exceptions" sets forth exception to the requirements that pertain to the reimbursement of home health and/or private duty nursing services. Amendments proposed to this rule include the addition of RN assessment and RN consultation services to the Introduction paragraph as services to be reimbursed under certain circumstances. "No fault" language is being added to the introduction paragraph. Paragraph C is being added to list the type of information agencies must capture and document in order to record "no fault".

OAC 5160-12-08, entitled "Registered nurse assessment and registered nurse consultation services" is a new rule that introduces two new State Plan services – "RN Assessments" and "RN Consultations". This new rule includes definitions, and outlines provider qualifications, the provision of services, reimbursement procedures, and record keeping requirements.

A copy of the proposed rules are available, without charge, to any person affected by the rule(s) at the address listed below and at the county departments of job and family services. The rule(s) is also available on the internet at <http://www.registerofohio.state.oh.us/>. A public hearing on the proposed rules will be held at the date, time, and location listed at the top of this notice. Both written and 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 rules and testimony on the rules should be submitted by mail to the Ohio Department of Medicaid Rules Administrator, Office of Chief Legal Counsel, 50 W. Town St, Fourth Floor, Columbus, Ohio 43215-3414, by fax at (614) 752-3986, or by e-mail at Rules@Medicaid.Ohio.gov. Testimony received may be reviewed at this address.