

**PUBLIC HEARING NOTICE  
OHIO DEPARTMENT OF MEDICAID**

**DATE:** November 17, 2016  
**TIME:** 11:00 a.m.  
**LOCATION:** Room A401, Lazarus Building  
50 W. Town St., Columbus, OH 43215

Pursuant to section 5165.02 and Chapter 119. of the Ohio Revised Code, the director of the Ohio Department of Medicaid gives notice of the department's intent to consider the adoption, amendment, or rescission of the rule or rules as identified below and of a public hearing thereon.

Proposed for Rescission

Rule 5160-3-42.1, entitled "Nursing facilities: medicaid cost report" sets forth provisions regarding the Medicaid nursing facility cost report. This rule was reviewed pursuant to a five-year rule review. As a result of that review, this rule is being proposed for rescission because the provisions in it are contained in other rules in Chapter 3 of the Administrative Code.

Proposed for Amendment

Rule 5160-3-20, entitled "Nursing facilities (NFs) and state operated intermediate care facilities for individuals with intellectual disabilities (ICFs-IID): medicaid cost report filing, disclosure requirements, and records retention" sets forth the Medicaid cost report filing, record retention, and disclosure provisions for nursing facilities and state operated ICFs-IID. This rule was reviewed pursuant to a five-year rule review. As a result of that review, this rule is being proposed for amendment. The changes to the rule are:

- The rule title is being modified to be consistent with the titles of other nursing facility rules in Chapter 5160-3 of the Administrative Code.
- Throughout the rule, "ICF-MR" is being changed to "ICF-IID" because the terminology has been updated.
- In the opening paragraph, reference to the Medicaid Nursing Facility Cost Report as found in Appendix A to OAC rule 5101:3-3-42.1 (now 5160-3-42.1), including its supplements and attachments or other approved forms for state operated ICFs-IID, is being deleted. The reference to the cost report is being deleted because Appendix A to rule 5160-3-42.1 was removed from the rule in a previous rule filing and the cost report is now posted on the Department of Medicaid's website. The reference to other approved forms for state operated ICFs-IID is being deleted because it is no longer necessary.
- New language is being added in the opening paragraph that requires nursing facilities to file the Medicaid cost report via the Medicaid Information Technology System (MITS) web portal or other electronic means designated by the Department of Medicaid because web portal submission currently is the Department's preferred method of filing cost reports and is consistent with the method currently used by other Medicaid providers.
- Also in the opening paragraph, the provision that the Department shall issue the appropriate software for an electronically submitted cost report not later than 60 days prior to the initial due date of the cost report is being deleted because the provision is

contained in the Revised Code. Additionally, the provision that requires the Department of Medicaid to issue an approved list of vendors is being deleted because the provision is obsolete.

- In paragraph (A)(1)(a), language is being changed to specify that, for the first calendar year a provider has a provider agreement, if the provider agreement goes into effect after October first of that calendar year, the provider shall file the first cost report for the immediately following calendar year. This change is being made to be consistent with statute, and because this rule is eliminating language regarding three-month cost reports.
- Provisions regarding three-month cost reports for a new facility or in cases of a change of operator are being deleted because the Department of Medicaid no longer requires nursing facilities to file three-month cost reports.
- In paragraph (A)(3), a sentence is being added to clarify that the late file penalty may be assessed even if the Department of Medicaid has provided written notice of termination to a facility. Also in paragraph (A)(3), the requirement regarding adjustment of the late file penalty for inflation each July first is being deleted because that provision is no longer contained in the Revised Code. Additionally, the late file penalty period is being changed to begin on the day after the original due date or, if applicable, on the day after the extension due date instead of on the date the Department of Medicaid issues its written notice in order to be consistent with current Department of Medicaid practices.
- In paragraph (C), the provision is being deleted that requires the Department of Medicaid to notify the facility of any information on the cost report that requires further support before issuing the preliminary determination of whether the reported costs are allowable costs. In addition, the sequence of activities is being changed so that the facility shall provide any documentation or other information requested by the Department of Medicaid and may submit any information it believes supports its reported costs after the Department notifies the facility of any costs preliminarily determined not to be allowable and the reasons for the determination. These changes are being made in order to be consistent with current Department of Medicaid practices.
- In new paragraph (H), language regarding publicly owned and traded corporations is being deleted so the ownership disclosure requirements for these types of nursing facilities are consistent with the ownership disclosure requirements for non-publicly owned and traded corporations.
- In new paragraph (H)(5), references to the Social Security Act are being updated and dates are being added in order to comply with Joint Committee on Agency Rule Review (JCARR) rule filing requirements.
- In new paragraph (H)(6), in order to be consistent with current Department of Medicaid procedure, the Office of the Auditor of State is being added to the list of organizations for which a provider must identify previous employment for individuals who are currently employed by or under contract with the provider or related party organization in a managerial, accounting, auditing, legal, or similar capacity.
- In new paragraph (I), the reference to audit provisions contained in 42 C.F.R. 420 subpart (D) is being deleted because the reference is not necessary.
- In new paragraph (J), new language is being added specifying that financial, statistical, and medical records supporting cost reports or claims shall also be available to the Department of Medicaid's authorized agent in order to be consistent with current Department of Medicaid practices.
- In new paragraph (K)(1), the depreciation value of depreciable equipment is being

changed from \$500 or more per item to \$5,000 or more per item in order to be consistent with federal regulations.

- Also in new paragraph (K)(1), the provision regarding costs of equipment acquired by an operating lease executed before December 1, 1992 reported in the ancillary/support cost component of the cost report is being deleted because it is no longer necessary.
- Ohio Administrative Code references are being updated due to the creation of the Ohio Department of Medicaid by Am. Sub. HB 59 of the 130<sup>th</sup> General Assembly and the subsequent renumbering of rules by the Legislative Services Commission.
- Ohio Revised Code citations are being updated because Am. Sub. HB 59 of the 130<sup>th</sup> General Assembly created the Ohio Department of Medicaid, and subsequently relocated and reorganized many Revised Code provisions governing the Medicaid program.
- The Department's name is being updated from the Ohio Department of Job and Family Services (ODJFS) to the Ohio Department of Medicaid (ODM) because of the creation of the Ohio Department of Medicaid.
- Paragraph references and designations are being updated as necessary.
- Phrasing and grammatical changes are being made to improve clarity, comprehension, and readability.

A copy of the proposed rules is available, without charge, to any person at the address listed below. The rules are 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. 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 or comments on the rules should be submitted by mail to the Ohio Department of Medicaid, Office of Legal Counsel, 50 W. Town Street, 4th Floor, Columbus, Ohio 43215-3414, by fax at (614) 995-1301, or by e-mail at [Rules@Medicaid.Ohio.gov](mailto:Rules@Medicaid.Ohio.gov). Testimony received may be reviewed at this address.