

**PUBLIC HEARING NOTICE  
OHIO DEPARTMENT OF MEDICAID**

DATE: February 14, 2025

TIME: 11:00 a.m.

Teleconference Dial-in Phone Number: 614-721-2972

Teleconference Pin: 308413157#

Link to Microsoft Teams Meeting for Hearing: [Click here to join the meeting](#)

In-Person Location: Room A501, Lazarus Building, 50 W. Town St., Columbus, OH 43215

Pursuant to Chapter 119. and sections 5165.02 and 5165.04 of the Revised Code, the Director of the Ohio Department of Medicaid (ODM) gives notice of ODM's intent to consider the amendment of the rules identified below and of a public hearing thereon.

**OAC Rule 5160-3-05, entitled "Level of care definitions,"** defines terms utilized throughout the nursing facility (NF) - based level of care (LOC) rules and is being proposed for amendment as a result of the five-year rule review process. Proposed changes to the rule include:

- Adding definitions for new language included in rule 5160-3-08.
- Removing language and definitions that are no longer applicable to this Administrative Code chapter.
- Substituting sensitive language references with more appropriate language throughout the rule.
- Updating state agency form number references to reflect Administrative Code changes.

**OAC Rule 5160-3-06, "Criteria for the protective level of care,"** delineates the criteria for meeting the protective LOC and is being proposed for amendment as a result of the five-year rule review process. Proposed changes to the rule include:

- Substituting sensitive language references with more appropriate language throughout the rule.

**OAC Rule 5160-3-08, "Criteria for the nursing facility-based level of care,"** delineates the criteria for meeting the intermediate and skilled LOC and is being proposed for amendment as a result of the five-year rule review process. Proposed changes to the rule include:

- Adding needs assessment criterion to allow individuals with indications of a developmental disability to be assessed for an intermediate LOC.
- Adding clarifying language to address individuals with developmental disabilities (DD) indications who are currently enrolled on home and community-based services (HCBS) waivers.
- Substituting sensitive language references with more appropriate language throughout the rule.

**OAC Rule 5160-3-14, entitled “Process and timeframes for a level of care determination for nursing facility-based level of care programs,”** identifies the processes and tasks for determining the LOC to consider Medicaid payment for services provided in a NF and the LOC component of NF-based HCBS waiver and program eligibility. The rule is being proposed for amendment as a result of the five-year rule review process. Proposed changes to the rule include:

- Adding language to prevent LOC determinations for effective dates preceding or within a post-payment review period.
- Adding language to clarify that LOC criteria is met for a period of up to 30-days after an individual is admitted under a valid hospital exemption.
- Adding language regarding the issuance of LOC determinations for individuals admitting to a NF with a non-adverse level II determination.
- Adding language to clarify that waiver program criteria must be met in addition to the LOC determination.
- Adding language to clarify that LOC determinations will not be used to overturn adverse level II determinations in state hearing decisions.
- Reinstating in-person LOC determination language used prior to the public health emergency (PHE) provisions under certain circumstances.
- Adding language to allow telephonic or video conferences LOC determinations requested by the individual.
- Reinstating delayed in-person visit requirements language used prior to the PHE.
- Substituting sensitive language references with more appropriate language throughout the rule.
- Updating state agency form citations to reflect Administrative Code changes.

ODM will hold the public hearing for this rule package via teleconference and in-person. ODM will not require masks for individuals attending in person. However, visitors are welcome to wear masks if that is their preference. The date and time for the public hearing are listed at the top of this Notice as well as the phone number, PIN (access code), and link for teleconference attendance, and location for in-person attendance.

All interested parties are invited to participate in the public hearing. Both oral and written testimony will be accepted for this hearing and will be given the same consideration. Persons who want to give oral testimony are asked to send a message by e-mail to [Rules@medicaid.ohio.gov](mailto:Rules@medicaid.ohio.gov) no later than one hour before the hearing to be added to the witness list. Those attending in person can be added to the witness list at the hearing. There will be a final call at the end of the hearing for persons who wish to offer oral testimony but are not yet on the witness list.

Written comments submitted in-person, by email, postal mail, or fax that are received or postmarked no later than the day of the hearing will be accepted as testimony and will become part of the hearing record. All testimony will become public record; therefore, ODM asks that protected health information (PHI) be excluded unless the information belongs to the person submitting the testimony or to a person for which the submitter is a legal guardian. Written testimony sent by e-mail is highly recommended. All persons who submit testimony by email will be sent a confirmation of receipt.

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/>. 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, Suite 400, Columbus, Ohio 43215-3414, by fax at (614) 995-1301, or by email at [Rules@Medicaid.Ohio.gov](mailto:Rules@Medicaid.Ohio.gov).

ODM is committed to providing access and inclusion and reasonable accommodation in its services, activities, programs, and employment opportunities in accordance with the Americans with Disabilities Act (ADA), Title VI of the Civil Rights Act, Section 1557 of the Affordable Care Act, and other applicable laws. To request an interpreter, written information in a language other than English or in other formats (large print, audio, accessible electronic formats, other formats), or a reasonable accommodation due to a disability, please contact ODM's Civil Rights/ADA Coordinator at 614-995-9981/TTY 711, Fax 1-614-644-1434, or Email: [ODM\\_EEO\\_EmployeeRelations@medicaid.ohio.gov](mailto:ODM_EEO_EmployeeRelations@medicaid.ohio.gov). Requests should be made at least three (3) business days prior to the scheduled hearing. If you believe ODM has failed to provide these services or discriminated in another way, you can file a grievance with ODM's Civil Rights Coordinator and/or file a civil rights complaint with the U.S. Department of Health and Human Services, Office for Civil Rights. Further information on these processes and ODM's compliance with civil rights and other applicable laws can be found here: [Notice of Nondiscrimination](#).