

# As Reported by the Committee of Conference

125th General Assembly  
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Am. Sub. H. B. No. 95, Part II

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## Part II

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Part II of this act continues Part I.

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**Sec. 5101.83.** (A) As used in this section:

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(1) "Assistance group" has the same meaning as in ~~sections~~  
section 5107.02 ~~and 5108.01~~ of the Revised Code, except that it  
also means a group provided benefits and services under the  
prevention, retention, and contingency program ~~because the members~~  
~~of the group share a common need for benefits and services.~~

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(2) "Fraudulent assistance" means assistance and service,  
including cash assistance, provided under the Ohio works first  
program established under Chapter 5107., or benefits and services  
provided under the prevention, retention, and contingency program  
established under Chapter 5108. of the Revised Code, to or on  
behalf of an assistance group that is provided as a result of  
fraud by a member of the assistance group, including an  
intentional violation of the program's requirements. "Fraudulent  
assistance" does not include assistance or services to or on  
behalf of an assistance group that is provided as a result of an  
error that is the fault of a county department of job and family  
services or the state department of job and family services.

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(B) If a county director of job and family services  
determines that an assistance group has received fraudulent  
assistance, the assistance group is ineligible to participate in

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the Ohio works first program or the prevention, retention, and 55749  
contingency program until a member of the assistance group repays 55750  
the cost of the fraudulent assistance. If a member repays the cost 55751  
of the fraudulent assistance and the assistance group otherwise 55752  
meets the eligibility requirements for the Ohio works first 55753  
program or the prevention, retention, and contingency program, the 55754  
assistance group shall not be denied the opportunity to 55755  
participate in the program. 55756

This section does not limit the ability of a county 55757  
department of job and family services to recover erroneous 55758  
payments under section 5107.76 of the Revised Code. 55759

The state department of job and family services shall adopt 55760  
rules in accordance with Chapter 119. of the Revised Code to 55761  
implement this section. 55762

**Sec. 5101.97.** (A)(1) Not later than the ~~first~~ last day of 55763  
each July and January, the department of job and family services 55764  
shall complete a report on the characteristics of the individuals 55765  
who participate in or receive services through the programs 55766  
operated by the department and the outcomes of the individuals' 55767  
participation in or receipt of services through the programs. The 55768  
~~report~~ reports shall be for the six-month periods ending on the 55769  
last days of June and December and shall include information on 55770  
the following: 55771

(a) Work activities, developmental activities, and 55772  
alternative work activities established under sections 5107.40 to 55773  
5107.69 of the Revised Code; 55774

(b) Programs of publicly funded child day-care, as defined in 55775  
section 5104.01 of the Revised Code; 55776

(c) Child support enforcement programs; 55777

(d) Births to recipients of the medical assistance program 55778

established under Chapter 5111. of the Revised Code. 55779

~~(2) Not later than the first day of each July, the department 55780  
shall complete a progress report on the partnership agreements 55781  
between the director of job and family services and boards of 55782  
county commissioners under section 5101.21 of the Revised Code. 55783  
The report shall include a review of whether the county family 55784  
services agencies and workforce development agencies satisfied 55785  
performance standards included in the agreements and whether the 55786  
department provided assistance, services, and technical support 55787  
specified in the agreements to aid the agencies in meeting the 55788  
performance standards. 55789~~

~~(3) The department shall submit the reports required under 55790  
divisions division (A)(1) and (2) of this section to the speaker 55791  
and minority leader of the house of representatives, the president 55792  
and minority leader of the senate, the legislative budget officer, 55793  
the director of budget and management, and each board of county 55794  
commissioners. The department shall provide copies of ~~each report~~ 55795  
the reports to any person or government entity on request. 55796~~

In designing the format for ~~each report~~ the reports, the 55797  
department shall consult with individuals, organizations, and 55798  
government entities interested in the programs operated by the 55799  
department, so that the reports are designed to enable the general 55800  
assembly and the public to evaluate the effectiveness of the 55801  
programs and identify any needs that the programs are not meeting. 55802

(B) Whenever the federal government requires that the 55803  
department submit a report on a program that is operated by the 55804  
department or is otherwise under the department's jurisdiction, 55805  
the department shall prepare and submit the report in accordance 55806  
with the federal requirements applicable to that report. To the 55807  
extent possible, the department may coordinate the preparation and 55808  
submission of a particular report with any other report, plan, or 55809  
other document required to be submitted to the federal government, 55810

as well as with any report required to be submitted to the general 55811  
assembly. The reports required by the Personal Responsibility and 55812  
Work Opportunity Reconciliation Act of 1996 (P.L. 104-193) may be 55813  
submitted as an annual summary. 55814

**Sec. 5103.031.** (A) Except as provided in section 5103.033 of 55815  
the Revised Code, the department of job and family services may 55816  
not issue a certificate under section 5103.03 of the Revised Code 55817  
to a foster home unless the foster caregiver successfully 55818  
completes the following amount of preplacement training through 55819  
~~the Ohio child welfare training program~~ or a preplacement training 55820  
program operated under section 5103.034 or 5153.60 of the Revised 55821  
Code: 55822

(1) If the foster home is a family foster home, at least 55823  
twelve hours; 55824

(2) If the foster home is a specialized foster home, at least 55825  
thirty-six hours. 55826

(B) No child may be placed in a family foster home unless the 55827  
foster caregiver completes at least twelve additional hours of 55828  
preplacement training through ~~the Ohio child welfare training~~ 55829  
~~program~~ or a preplacement training program operated under section 55830  
5103.034 or 5153.60 of the Revised Code. 55831

**Sec. 5103.033.** The department of job and family services may 55832  
issue or renew a certificate under section 5103.03 of the Revised 55833  
Code to a foster home for the care of a child who is in the 55834  
custody of a public children services agency or private child 55835  
placing agency pursuant to an agreement entered into under section 55836  
5103.15 of the Revised Code regarding a child who was less than 55837  
six months of age on the date the agreement was executed if the 55838  
foster caregiver successfully completes the following amount of 55839  
training: 55840

(A) For an initial certificate, at least twelve hours of 55841  
preplacement training through ~~the Ohio child welfare training~~ 55842  
~~program~~ or a preplacement training program operated under section 55843  
5103.034 or 5153.60 of the Revised Code; 55844

(B) For renewal of a certificate, at least twelve hours each 55845  
year of continuing training in accordance with the foster 55846  
caregiver's needs assessment and continuing training plan 55847  
developed and implemented under section 5103.035 of the Revised 55848  
Code. 55849

**Sec. 5103.034.** (A) A ~~public children services agency~~, private 55850  
child placing agency, or private noncustodial agency operating a 55851  
preplacement training program or continuing training program 55852  
approved by the department of job and family services under 55853  
section 5103.038 of the Revised Code or the Ohio child welfare 55854  
training program operating a preplacement training program or 55855  
continuing training program pursuant to section 5153.60 of the 55856  
Revised Code shall make the program available to foster 55857  
caregivers. The agency or program shall make the programs 55858  
available without regard to the type of recommending agency from 55859  
which a foster caregiver seeks a recommendation ~~and without charge~~ 55860  
~~to the foster caregiver.~~ 55861

(B) A private child placing agency or private noncustodial 55862  
agency operating a preplacement training program or continuing 55863  
training program approved by the department of job and family 55864  
services under section 5103.038 of the Revised Code may condition 55865  
the enrollment of a foster caregiver in a program on either or 55866  
both of the following: 55867

(1) Availability of space in the training program; 55868

(2) If applicable, payment of an instruction or registration 55869  
fee, if any, by the foster caregiver's recommending agency. 55870

(C) The Ohio child welfare training program operating a preplacement training program or continuing training program pursuant to section 5153.60 of the Revised Code may condition the enrollment in a preplacement training program or continuing training program of a foster caregiver whose recommending agency is a private child placing agency or private noncustodial agency on either or both of the following: 55871  
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(1) Availability of space in the training program; 55878

(2) Assignment to the program by the foster caregiver's recommending agency of the allowance payable under section 5103.0313 of the Revised Code. 55879  
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(D) A private child placing agency or private noncustodial agency may contract with an individual or a public or private entity to administer a preplacement training program or continuing training program operated by the agency and approved by the department of job and family services under section 5103.038 of the Revised Code. 55882  
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**Sec. 5103.036.** For the purpose of determining whether a foster caregiver has satisfied the requirement of section 5103.031 or 5103.032 of the Revised Code, a recommending agency shall accept training obtained from ~~the Ohio child welfare training program or pursuant to~~ a preplacement training program or continuing training program operated under section 5103.034 or 5153.60 of the Revised Code regardless of whether the program is operated by the recommending agency ~~operated the preplacement training program or continuing training program~~. The agency may require that the foster caregiver successfully complete additional training as a condition of the agency recommending that the department of job and family services certify or recertify the foster caregiver's foster home under section 5103.03 of the Revised Code. 55888  
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**Sec. 5103.037.** The department of job and family services, in 55902  
consultation with the departments of youth services, mental 55903  
health, education, mental retardation and developmental 55904  
disabilities, and alcohol and drug addiction services, shall 55905  
develop a model design of a preplacement training program for 55906  
foster caregivers seeking an initial certificate under section 55907  
5103.03 of the Revised Code and a model design of a continuing 55908  
training program for foster caregivers seeking renewal of a 55909  
certificate under that section. The model design of a preplacement 55910  
training program shall comply with section 5103.039 of the Revised 55911  
Code. The model design of a continuing training program shall 55912  
comply with section 5103.0310 of the Revised Code. The department 55913  
of job and family services shall make the model designs available 55914  
to ~~public children services agencies~~ the Ohio child welfare 55915  
training program, private child placing agencies, and private 55916  
noncustodial agencies. 55917

**Sec. 5103.038.** (A) Every other year by a date specified in 55918  
rules adopted under section 5103.0316 of the Revised Code, each 55919  
~~public children services agency~~, private child placing agency, and 55920  
private noncustodial agency that seeks to operate a preplacement 55921  
training program or continuing training program under section 55922  
5103.034 of the Revised Code shall submit to the department of job 55923  
and family services a proposal outlining the program. The proposal 55924  
may be the same as, a modification of, or different from, a model 55925  
design developed under section 5103.037 of the Revised Code. ~~The~~ 55926  
~~proposal shall include a budget for the program regarding the cost~~ 55927  
~~associated with trainers, obtaining sites at which the training is~~ 55928  
~~provided, and the administration of the training. The budget shall~~ 55929  
~~be consistent with rules adopted under section 5103.0316 of the~~ 55930  
~~Revised Code governing the department of job and family services'~~ 55931  
~~reimbursement of public children services agencies, private child~~ 55932

~~placing agencies, and private noncustodial agencies under section 5103.0313 of the Revised Code.~~ 55933  
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(B) Not later than thirty days after receiving a proposal 55935  
under division (A) of this section, the department shall either 55936  
approve or disapprove the proposed program. The department shall 55937  
approve a proposed preplacement training program if it complies 55938  
with section 5103.039 or 5103.0310 of the Revised Code, as 55939  
appropriate, and, in the case of a proposal submitted by an agency 55940  
operating a preplacement training program at the time the proposal 55941  
is submitted, the department is satisfied with the agency's 55942  
operation of the program. The department shall approve a proposed 55943  
continuing training program if it complies with section 5103.0310 55944  
or 5103.0311 of the Revised Code, as appropriate, and, in the case 55945  
of a proposal submitted by an agency operating a continuing 55946  
training program at the time the proposal is submitted, the 55947  
department is satisfied with the agency's operation of the 55948  
program. ~~The department shall disapprove a proposed program if the~~ 55949  
~~program's budget is not consistent with rules adopted under~~ 55950  
~~section 5103.0316 of the Revised Code governing the department's~~ 55951  
~~reimbursement of public children services agencies, private child~~ 55952  
~~placing agencies, and private noncustodial agencies under section~~ 55953  
~~5103.0313 of the Revised Code.~~ If the department disapproves a 55954  
proposal, it shall provide the reason for disapproval to the 55955  
agency that submitted the proposal and advise the agency of how to 55956  
revise the proposal so that the department can approve it. 55957

(C) The department's approval under division (B) of this 55958  
section of a proposed preplacement training program or continuing 55959  
training program is valid only for two years following the year 55960  
the proposal for the program is submitted to the department under 55961  
division (A) of this section. 55962

**Sec. 5103.0312.** A public children services agency, private 55963



child placing agency, or private noncustodial agency acting as a 55964  
recommending agency for foster caregivers who hold certificates 55965  
issued under section 5103.03 of the Revised Code shall pay those 55966  
foster caregivers ~~who have had at least one foster child placed in~~ 55967  
~~their home~~ a stipend to reimburse them for attending training 55968  
~~courses provided by the Ohio child welfare training program or~~ 55969  
~~pursuant to~~ a preplacement training program or continuing training 55970  
program operated under section 5103.034 or 5153.60 of the Revised 55971  
Code. The payment shall be based on a stipend rate established by 55972  
the department of job and family services. The stipend rate shall 55973  
be the same regardless of the type of recommending agency from 55974  
which a foster caregiver seeks a recommendation. The department 55975  
shall, pursuant to rules adopted under section 5103.0316 of the 55976  
Revised Code, reimburse the recommending agency for stipend 55977  
payments it makes in accordance with this section. 55978

**Sec. 5103.0313.** The department of job and family services 55979  
shall ~~reimburse the following~~ compensate a private child placing 55980  
agency or private noncustodial agency for the cost of ~~providing~~ 55981  
procuring or operating preplacement and continuing training ~~to~~ 55982  
~~foster caregivers.~~ 55983

~~(A) The Ohio child welfare training program;~~ 55984

~~(B) A public children services agency, private child placing~~ 55985  
~~agency, or private noncustodial agency through a preplacement~~ 55986  
~~training program or continuing training program operated~~ programs 55987  
under section 5103.034 of the Revised Code for foster caregivers 55988  
who are recommended for initial certification or recertification 55989  
by the agency. 55990

The ~~reimbursement~~ compensation shall be ~~on a per diem basis~~ 55991  
~~and limited to the cost associated with the trainer, obtaining a~~ 55992  
~~site at which the training is provided, and the administration of~~ 55993  
the training paid to the agency in the form of an allowance for 55994

~~each hour of preplacement and continuing training provided or 55995  
received. A reimbursement rate shall be the same regardless of 55996  
whether the training program is operated by the Ohio child welfare 55997  
training program or a public children services agency, private 55998  
child placing agency, or private noncustodial agency. 55999~~

**Sec. 5103.0314.** The department of job and family services 56000  
shall not ~~reimburse~~ compensate a recommending agency for ~~the cost~~ 56001  
~~of~~ any training the agency requires a foster caregiver to undergo 56002  
as a condition of the agency recommending the department certify 56003  
or recertify the foster caregiver's foster home under section 56004  
5103.03 of the Revised Code if the training is in addition to the 56005  
minimum training required by section 5103.031 or 5103.032 of the 56006  
Revised Code. 56007

**Sec. 5103.0315.** The department of job and family services 56008  
shall seek federal financial participation for the cost of making 56009  
payments under section 5103.0312 of the Revised Code and 56010  
~~reimbursements~~ allowances under section 5103.0313 of the Revised 56011  
Code. The department shall notify the governor, president of the 56012  
senate, minority leader of the senate, speaker of the house of 56013  
representatives, and minority leader of the house of 56014  
representatives of any proposed federal legislation that endangers 56015  
the federal financial participation. 56016

**Sec. 5103.0316.** ~~Not later than ninety days after January 1,~~ 56017  
~~2001, the~~ The department of job and family services shall adopt 56018  
rules in accordance with Chapter 119. of the Revised Code as 56019  
necessary for the efficient administration of sections 5103.031 to 56020  
5103.0316 of the Revised Code. The rules shall provide for all of 56021  
the following: 56022

(A) For the purpose of section 5103.038 of the Revised Code, 56023  
the date by which a ~~public children services agency,~~ private child 56024

placing agency, or private noncustodial agency that seeks to 56025  
operate a preplacement training program or continuing training 56026  
program under section 5103.034 of the Revised Code must submit to 56027  
the department a proposal outlining the program; 56028

(B) Requirements governing the department's ~~reimbursement~~ 56029  
~~compensation of the Ohio child welfare training program and public~~ 56030  
~~children services agencies,~~ private child placing agencies, and 56031  
private noncustodial agencies under sections 5103.0312 and 56032  
5103.0313 of the Revised Code; 56033

(C) Any other matter the department considers appropriate. 56034

**Sec. 5103.154.** (A) Information concerning all children who 56035  
are, pursuant to section 2151.353 or 5103.15 of the Revised Code, 56036  
in the permanent custody of an institution or association 56037  
certified by the department of job and family services under 56038  
section 5103.03 of the Revised Code shall be listed with the 56039  
department within ninety days after permanent custody is 56040  
effective, unless the child has been placed for adoption or unless 56041  
an application for placement was initiated under section 5103.16 56042  
of the Revised Code. 56043

(B) All persons who wish to adopt children, and are approved 56044  
by an agency so empowered under this chapter, shall be listed with 56045  
the department within ninety days of approval, unless a person 56046  
requests in writing that that person's name not be so listed, or 56047  
has had a child placed in that person's home in preparation for 56048  
adoption, or has filed a petition for adoption. 56049

(C) All persons who wish to adopt a child with special needs 56050  
as defined in rules adopted under section 5153.163 of the Revised 56051  
Code, and who are approved by an agency so empowered under this 56052  
chapter, shall be listed separately by the department within 56053  
ninety days of approval, unless a person requests in writing that 56054  
that person's name not be so listed, or has had a child with 56055

special needs placed in that person's home in preparation for 56056  
adoption, or has filed a petition for adoption. 56057

(D) The department shall forward information on such children 56058  
and listed persons at least quarterly, to all public children 56059  
services agencies and all certified agencies. 56060

(E) The appropriate listed names shall be removed when a 56061  
child is placed in an adoptive home or when a person withdraws an 56062  
application for adoption. 56063

(F) No later than six months after the end of each fiscal 56064  
year, the department shall compile a report of its conclusions 56065  
regarding the effectiveness of its actions pursuant to this 56066  
section and of the restrictions on placement under division ~~(E)~~(G) 56067  
of section 5153.163 of the Revised Code in increasing adoptive 56068  
placements of children with special needs, together with its 56069  
recommendations, and shall submit a copy of the report to the 56070  
chairpersons of the principal committees of the senate and the 56071  
house of representatives who consider welfare legislation. 56072

Sec. 5103.155. As used in this section, "children with 56073  
special needs" has the same meaning as in rules adopted under 56074  
section 5153.163 of the Revised Code. 56075

If the department of job and family services determines that 56076  
money in the putative father registry fund created under section 56077  
2101.16 of the Revised Code is more than is needed to perform its 56078  
duties related to the putative father registry, the department may 56079  
use surplus moneys in the fund to promote adoption of children 56080  
with special needs. 56081

**Sec. 5104.01.** As used in this chapter: 56082

(A) "Administrator" means the person responsible for the 56083  
daily operation of a center or type A home. The administrator and 56084  
the owner may be the same person. 56085

(B) "Approved child day camp" means a child day camp approved pursuant to section 5104.22 of the Revised Code. 56086  
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(C) "Authorized provider" means a person authorized by a county director of job and family services to operate a certified type B family day-care home. 56088  
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(D) "Border state child day-care provider" means a child day-care provider that is located in a state bordering Ohio and that is licensed, certified, or otherwise approved by that state to provide child day-care. 56091  
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(E) "Caretaker parent" means the father or mother of a child whose presence in the home is needed as the caretaker of the child, a person who has legal custody of a child and whose presence in the home is needed as the caretaker of the child, a guardian of a child whose presence in the home is needed as the caretaker of the child, and any other person who stands in loco parentis with respect to the child and whose presence in the home is needed as the caretaker of the child. 56095  
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(F) "Certified type B family day-care home" and "certified type B home" mean a type B family day-care home that is certified by the director of the county department of job and family services pursuant to section 5104.11 of the Revised Code to receive public funds for providing child day-care pursuant to this chapter and any rules adopted under it. 56103  
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(G) "Chartered nonpublic school" means a school that meets standards for nonpublic schools prescribed by the state board of education for nonpublic schools pursuant to section 3301.07 of the Revised Code. 56109  
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(H) "Child" includes an infant, toddler, preschool child, or school child. 56113  
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(I) "Child care block grant act" means the "Child Care and 56115

Development Block Grant Act of 1990," established in section 5082 56116  
of the "Omnibus Budget Reconciliation Act of 1990," 104 Stat. 56117  
1388-236 (1990), 42 U.S.C. 9858, as amended. 56118

(J) "Child day camp" means a program in which only school 56119  
children attend or participate, that operates for no more than 56120  
seven hours per day, that operates only during one or more public 56121  
school district's regular vacation periods or for no more than 56122  
fifteen weeks during the summer, and that operates outdoor 56123  
activities for each child who attends or participates in the 56124  
program for a minimum of fifty per cent of each day that children 56125  
attend or participate in the program, except for any day when 56126  
hazardous weather conditions prevent the program from operating 56127  
outdoor activities for a minimum of fifty per cent of that day. 56128  
For purposes of this division, the maximum seven hours of 56129  
operation time does not include transportation time from a child's 56130  
home to a child day camp and from a child day camp to a child's 56131  
home. 56132

(K) "Child day-care" means administering to the needs of 56133  
infants, toddlers, preschool children, and school children outside 56134  
of school hours by persons other than their parents or guardians, 56135  
custodians, or relatives by blood, marriage, or adoption for any 56136  
part of the twenty-four-hour day in a place or residence other 56137  
than a child's own home. 56138

(L) "Child day-care center" and "center" mean any place in 56139  
which child day-care or publicly funded child day-care is provided 56140  
for thirteen or more children at one time or any place that is not 56141  
the permanent residence of the licensee or administrator in which 56142  
child day-care or publicly funded child day-care is provided for 56143  
seven to twelve children at one time. In counting children for the 56144  
purposes of this division, any children under six years of age who 56145  
are related to a licensee, administrator, or employee and who are 56146  
on the premises of the center shall be counted. "Child day-care 56147

center" and "center" do not include any of the following: 56148

(1) A place located in and operated by a hospital, as defined 56149  
in section 3727.01 of the Revised Code, in which the needs of 56150  
children are administered to, if all the children whose needs are 56151  
being administered to are monitored under the on-site supervision 56152  
of a physician licensed under Chapter 4731. of the Revised Code or 56153  
a registered nurse licensed under Chapter 4723. of the Revised 56154  
Code, and the services are provided only for children who, in the 56155  
opinion of the child's parent, guardian, or custodian, are 56156  
exhibiting symptoms of a communicable disease or other illness or 56157  
are injured; 56158

(2) A child day camp; 56159

(3) A place that provides child day-care, but not publicly 56160  
funded child day-care, if all of the following apply: 56161

(a) An organized religious body provides the child day-care; 56162

(b) A parent, custodian, or guardian of at least one child 56163  
receiving child day-care is on the premises and readily accessible 56164  
at all times; 56165

(c) The child day-care is not provided for more than thirty 56166  
days a year; 56167

(d) The child day-care is provided only for preschool and 56168  
school children. 56169

(M) "Child day-care resource and referral service 56170  
organization" means a community-based nonprofit organization that 56171  
provides child day-care resource and referral services but not 56172  
child day-care. 56173

(N) "Child day-care resource and referral services" means all 56174  
of the following services: 56175

(1) Maintenance of a uniform data base of all child day-care 56176  
providers in the community that are in compliance with this 56177

chapter, including current occupancy and vacancy data;	56178
(2) Provision of individualized consumer education to families seeking child day-care;	56179 56180
(3) Provision of timely referrals of available child day-care providers to families seeking child day-care;	56181 56182
(4) Recruitment of child day-care providers;	56183
(5) Assistance in the development, conduct, and dissemination of training for child day-care providers and provision of technical assistance to current and potential child day-care providers, employers, and the community;	56184 56185 56186 56187
(6) Collection and analysis of data on the supply of and demand for child day-care in the community;	56188 56189
(7) Technical assistance concerning locally, state, and federally funded child day-care and early childhood education programs;	56190 56191 56192
(8) Stimulation of employer involvement in making child day-care more affordable, more available, safer, and of higher quality for their employees and for the community;	56193 56194 56195
(9) Provision of written educational materials to caretaker parents and informational resources to child day-care providers;	56196 56197
(10) Coordination of services among child day-care resource and referral service organizations to assist in developing and maintaining a statewide system of child day-care resource and referral services if required by the department of job and family services;	56198 56199 56200 56201 56202
(11) Cooperation with the county department of job and family services in encouraging the establishment of parent cooperative child day-care centers and parent cooperative type A family day-care homes.	56203 56204 56205 56206
(0) "Child-care staff member" means an employee of a child	56207



day-care center or type A family day-care home who is primarily 56208  
responsible for the care and supervision of children. The 56209  
administrator may be a part-time child-care staff member when not 56210  
involved in other duties. 56211

(P) "Drop-in child day-care center," "drop-in center," 56212  
"drop-in type A family day-care home," and "drop-in type A home" 56213  
mean a center or type A home that provides child day-care or 56214  
publicly funded child day-care for children on a temporary, 56215  
irregular basis. 56216

(Q) "Employee" means a person who either: 56217

(1) Receives compensation for duties performed in a child 56218  
day-care center or type A family day-care home; 56219

(2) Is assigned specific working hours or duties in a child 56220  
day-care center or type A family day-care home. 56221

(R) "Employer" means a person, firm, institution, 56222  
organization, or agency that operates a child day-care center or 56223  
type A family day-care home subject to licensure under this 56224  
chapter. 56225

(S) "Federal poverty line" means the official poverty 56226  
guideline as revised annually in accordance with section 673(2) of 56227  
the "Omnibus Budget Reconciliation Act of 1981," 95 Stat. 511, 42 56228  
U.S.C. 9902, as amended, for a family size equal to the size of 56229  
the family of the person whose income is being determined. 56230

(T) "Head start program" means a comprehensive child 56231  
development program that receives funds distributed under the 56232  
"Head Start Act," 95 Stat. 499 (1981), 42 U.S.C.A. 9831, as 56233  
amended, or under ~~section~~ sections 3301.31 to 3301.37 of the 56234  
Revised Code. 56235

(U) "Income" means gross income, as defined in section 56236  
5107.10 of the Revised Code, less any amounts required by federal 56237

statutes or regulations to be disregarded.	56238
(V) "Indicator checklist" means an inspection tool, used in conjunction with an instrument-based program monitoring information system, that contains selected licensing requirements that are statistically reliable indicators or predictors of a child day-care center or type A family day-care home's compliance with licensing requirements.	56239 56240 56241 56242 56243 56244
(W) "Infant" means a child who is less than eighteen months of age.	56245 56246
(X) "In-home aide" means a person certified by a county director of job and family services pursuant to section 5104.12 of the Revised Code to provide publicly funded child day-care to a child in a child's own home pursuant to this chapter and any rules adopted under it.	56247 56248 56249 56250 56251
(Y) "Instrument-based program monitoring information system" means a method to assess compliance with licensing requirements for child day-care centers and type A family day-care homes in which each licensing requirement is assigned a weight indicative of the relative importance of the requirement to the health, growth, and safety of the children that is used to develop an indicator checklist.	56252 56253 56254 56255 56256 56257 56258
(Z) "License capacity" means the maximum number in each age category of children who may be cared for in a child day-care center or type A family day-care home at one time as determined by the director of job and family services considering building occupancy limits established by the department of commerce, number of available child-care staff members, amount of available indoor floor space and outdoor play space, and amount of available play equipment, materials, and supplies.	56259 56260 56261 56262 56263 56264 56265 56266
(AA) "Licensed preschool program" or "licensed school child program" means a preschool program or school child program, as	56267 56268

defined in section 3301.52 of the Revised Code, that is licensed 56269  
by the department of education pursuant to sections 3301.52 to 56270  
3301.59 of the Revised Code. 56271

(BB) "Licensee" means the owner of a child day-care center or 56272  
type A family day-care home that is licensed pursuant to this 56273  
chapter and who is responsible for ensuring its compliance with 56274  
this chapter and rules adopted pursuant to this chapter. 56275

(CC) "Operate a child day camp" means to operate, establish, 56276  
manage, conduct, or maintain a child day camp. 56277

(DD) "Owner" includes a person, as defined in section 1.59 of 56278  
the Revised Code, or government entity. 56279

(EE) "Parent cooperative child day-care center," "parent 56280  
cooperative center," "parent cooperative type A family day-care 56281  
home," and "parent cooperative type A home" mean a corporation or 56282  
association organized for providing educational services to the 56283  
children of members of the corporation or association, without 56284  
gain to the corporation or association as an entity, in which the 56285  
services of the corporation or association are provided only to 56286  
children of the members of the corporation or association, 56287  
ownership and control of the corporation or association rests 56288  
solely with the members of the corporation or association, and at 56289  
least one parent-member of the corporation or association is on 56290  
the premises of the center or type A home during its hours of 56291  
operation. 56292

(FF) "Part-time child day-care center," "part-time center," 56293  
"part-time type A family day-care home," and "part-time type A 56294  
home" mean a center or type A home that provides child day-care or 56295  
publicly funded child day-care for no more than four hours a day 56296  
for any child. 56297

(GG) "Place of worship" means a building where activities of 56298  
an organized religious group are conducted and includes the 56299

grounds and any other buildings on the grounds used for such 56300  
activities. 56301

(HH) "Preschool child" means a child who is three years old 56302  
or older but is not a school child. 56303

(II) "Protective day-care" means publicly funded child 56304  
day-care for the direct care and protection of a child to whom 56305  
either of the following applies: 56306

(1) A case plan prepared and maintained for the child 56307  
pursuant to section 2151.412 of the Revised Code indicates a need 56308  
for protective day-care and the child resides with a parent, 56309  
stepparent, guardian, or another person who stands in loco 56310  
parentis as defined in rules adopted under section 5104.38 of the 56311  
Revised Code; 56312

(2) The child and the child's caretaker either temporarily 56313  
reside in a facility providing emergency shelter for homeless 56314  
families or are determined by the county department of job and 56315  
family services to be homeless, and are otherwise ineligible for 56316  
publicly funded child day-care. 56317

(JJ) "Publicly funded child day-care" means administering to 56318  
the needs of infants, toddlers, preschool children, and school 56319  
children under age thirteen during any part of the 56320  
twenty-four-hour day by persons other than their caretaker parents 56321  
for remuneration wholly or in part with federal or state funds, 56322  
including funds available under the child care block grant act 56323  
~~funds~~ Title IV-A, and Title XX, distributed by the department of 56324  
job and family services. 56325

(KK) "Religious activities" means any of the following: 56326  
worship or other religious services; religious instruction; Sunday 56327  
school classes or other religious classes conducted during or 56328  
prior to worship or other religious services; youth or adult 56329  
fellowship activities; choir or other musical group practices or 56330

programs; meals; festivals; or meetings conducted by an organized religious group. 56331  
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(LL) "School child" means a child who is enrolled in or is eligible to be enrolled in a grade of kindergarten or above but is less than fifteen years old. 56333  
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(MM) "School child day-care center," "school child center," "school child type A family day-care home," and "school child type A family home" mean a center or type A home that provides child day-care for school children only and that does either or both of the following: 56336  
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(1) Operates only during that part of the day that immediately precedes or follows the public school day of the school district in which the center or type A home is located; 56341  
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(2) Operates only when the public schools in the school district in which the center or type A home is located are not open for instruction with pupils in attendance. 56344  
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(NN) "State median income" means the state median income calculated by the department of development pursuant to division (A)(1)(g) of section 5709.61 of the Revised Code. 56347  
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(OO) "Title IV-A" means Title IV-A of the "Social Security Act," 110 Stat. 2113 (1996), 42 U.S.C. 601, as amended. 56350  
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(PP) "Title XX" means Title XX of the "Social Security Act," 88 Stat. 2337 (1974), 42 U.S.C. 1397, as amended. 56352  
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(OO) "Toddler" means a child who is at least eighteen months of age but less than three years of age. 56354  
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~~(PP)~~(RR) "Type A family day-care home" and "type A home" mean a permanent residence of the administrator in which child day-care or publicly funded child day-care is provided for seven to twelve children at one time or a permanent residence of the administrator in which child day-care is provided for four to twelve children at 56356  
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one time if four or more children at one time are under two years 56361  
of age. In counting children for the purposes of this division, 56362  
any children under six years of age who are related to a licensee, 56363  
administrator, or employee and who are on the premises of the type 56364  
A home shall be counted. "Type A family day-care home" does not 56365  
include a residence in which the needs of children are 56366  
administered to, if all of the children whose needs are being 56367  
administered to are siblings of the same immediate family and the 56368  
residence is the home of the siblings. "Type A family day-care 56369  
home" and "type A home" do not include any child day camp. 56370

~~(SS)~~ "Type B family day-care home" and "type B home" mean 56371  
a permanent residence of the provider in which child day-care is 56372  
provided for one to six children at one time and in which no more 56373  
than three children are under two years of age at one time. In 56374  
counting children for the purposes of this division, any children 56375  
under six years of age who are related to the provider and who are 56376  
on the premises of the type B home shall be counted. "Type B 56377  
family day-care home" does not include a residence in which the 56378  
needs of children are administered to, if all of the children 56379  
whose needs are being administered to are siblings of the same 56380  
immediate family and the residence is the home of the siblings. 56381  
"Type B family day-care home" and "type B home" do not include any 56382  
child day camp. 56383

**Sec. 5104.011.** (A) The director of job and family services 56384  
shall adopt rules pursuant to Chapter 119. of the Revised Code 56385  
governing the operation of child day-care centers, including, but 56386  
not limited to, parent cooperative centers, part-time centers, 56387  
drop-in centers, and school child centers, which rules shall 56388  
reflect the various forms of child day-care and the needs of 56389  
children receiving child day-care or publicly funded child 56390  
day-care and, ~~no later than January 1, 1992,~~ shall include 56391  
specific rules for school child day-care centers that are 56392

developed in consultation with the department of education. The 56393  
rules shall not require an existing school facility that is in 56394  
compliance with applicable building codes to undergo an additional 56395  
building code inspection or to have structural modifications. The 56396  
rules shall include the following: 56397

(1) Submission of a site plan and descriptive plan of 56398  
operation to demonstrate how the center proposes to meet the 56399  
requirements of this chapter and rules adopted pursuant to this 56400  
chapter for the initial license application; 56401

(2) Standards for ensuring that the physical surroundings of 56402  
the center are safe and sanitary including, but not limited to, 56403  
the physical environment, the physical plant, and the equipment of 56404  
the center; 56405

(3) Standards for the supervision, care, and discipline of 56406  
children receiving child day-care or publicly funded child 56407  
day-care in the center; 56408

(4) Standards for a program of activities, and for play 56409  
equipment, materials, and supplies, to enhance the development of 56410  
each child; however, any educational curricula, philosophies, and 56411  
methodologies that are developmentally appropriate and that 56412  
enhance the social, emotional, intellectual, and physical 56413  
development of each child shall be permissible. As used in this 56414  
division, "program" does not include instruction in religious or 56415  
moral doctrines, beliefs, or values that is conducted at child 56416  
day-care centers owned and operated by churches and does include 56417  
methods of disciplining children at child day-care centers. 56418

(5) Admissions policies and procedures, health care policies 56419  
and procedures, including, but not limited to, procedures for the 56420  
isolation of children with communicable diseases, first aid and 56421  
emergency procedures, procedures for discipline and supervision of 56422  
children, standards for the provision of nutritious meals and 56423

snacks, and procedures for screening children and employees,	56424
including, but not limited to, any necessary physical examinations	56425
and immunizations;	56426
(6) Methods for encouraging parental participation in the	56427
center and methods for ensuring that the rights of children,	56428
parents, and employees are protected and that responsibilities of	56429
parents and employees are met;	56430
(7) Procedures for ensuring the safety and adequate	56431
supervision of children traveling off the premises of the center	56432
while under the care of a center employee;	56433
(8) Procedures for record keeping, organization, and	56434
administration;	56435
(9) Procedures for issuing, renewing, denying, and revoking a	56436
license that are not otherwise provided for in Chapter 119. of the	56437
Revised Code;	56438
(10) Inspection procedures;	56439
(11) Procedures and standards for setting initial and renewal	56440
license application fees;	56441
(12) Procedures for receiving, recording, and responding to	56442
complaints about centers;	56443
(13) Procedures for enforcing section 5104.04 of the Revised	56444
Code;	56445
(14) A standard requiring the inclusion, on and after July 1,	56446
1987, of a current department of job and family services toll-free	56447
telephone number on each center provisional license or license	56448
which any person may use to report a suspected violation by the	56449
center of this chapter or rules adopted pursuant to this chapter;	56450
(15) Requirements for the training of administrators and	56451
child-care staff members in first aid, in prevention, recognition,	56452
and management of communicable diseases, and in child abuse	56453



recognition and prevention. Training requirements for child 56454  
day-care centers adopted under this division shall be consistent 56455  
with divisions (B)(6) and (C)(1) of this section. 56456

(16) Procedures to be used by licensees for checking the 56457  
references of potential employees of centers and procedures to be 56458  
used by the director for checking the references of applicants for 56459  
licenses to operate centers; 56460

(17) Standards providing for the special needs of children 56461  
who are handicapped or who require treatment for health conditions 56462  
while the child is receiving child day-care or publicly funded 56463  
child day-care in the center; 56464

(18) Any other procedures and standards necessary to carry 56465  
out this chapter. 56466

(B)(1) The child day-care center shall have, for each child 56467  
for whom the center is licensed, at least thirty-five square feet 56468  
of usable indoor floor space wall-to-wall regularly available for 56469  
the child day-care operation exclusive of any parts of the 56470  
structure in which the care of children is prohibited by law or by 56471  
rules adopted by the board of building standards. The minimum of 56472  
thirty-five square feet of usable indoor floor space shall not 56473  
include hallways, kitchens, storage areas, or any other areas that 56474  
are not available for the care of children, as determined by the 56475  
director, in meeting the space requirement of this division, and 56476  
bathrooms shall be counted in determining square footage only if 56477  
they are used exclusively by children enrolled in the center, 56478  
except that the exclusion of hallways, kitchens, storage areas, 56479  
bathrooms not used exclusively by children enrolled in the center, 56480  
and any other areas not available for the care of children from 56481  
the minimum of thirty-five square feet of usable indoor floor 56482  
space shall not apply to: 56483

(a) Centers licensed prior to or on September 1, 1986, that 56484

continue under licensure after that date; 56485

(b) Centers licensed prior to or on September 1, 1986, that 56486  
are issued a new license after that date solely due to a change of 56487  
ownership of the center. 56488

(2) The child day-care center shall have on the site a safe 56489  
outdoor play space which is enclosed by a fence or otherwise 56490  
protected from traffic or other hazards. The play space shall 56491  
contain not less than sixty square feet per child using such space 56492  
at any one time, and shall provide an opportunity for supervised 56493  
outdoor play each day in suitable weather. The director may exempt 56494  
a center from the requirement of this division, if an outdoor play 56495  
space is not available and if all of the following are met: 56496

(a) The center provides an indoor recreation area that has 56497  
not less than sixty square feet per child using the space at any 56498  
one time, that has a minimum of one thousand four hundred forty 56499  
square feet of space, and that is separate from the indoor space 56500  
required under division (B)(1) of this section. 56501

(b) The director has determined that there is regularly 56502  
available and scheduled for use a conveniently accessible and safe 56503  
park, playground, or similar outdoor play area for play or 56504  
recreation. 56505

(c) The children are closely supervised during play and while 56506  
traveling to and from the area. 56507

The director also shall exempt from the requirement of this 56508  
division a child day-care center that was licensed prior to 56509  
September 1, 1986, if the center received approval from the 56510  
director prior to September 1, 1986, to use a park, playground, or 56511  
similar area, not connected with the center, for play or 56512  
recreation in lieu of the outdoor space requirements of this 56513  
section and if the children are closely supervised both during 56514  
play and while traveling to and from the area and except if the 56515

director determines upon investigation and inspection pursuant to 56516  
section 5104.04 of the Revised Code and rules adopted pursuant to 56517  
that section that the park, playground, or similar area, as well 56518  
as access to and from the area, is unsafe for the children. 56519

(3) The child day-care center shall have at least two 56520  
responsible adults available on the premises at all times when 56521  
seven or more children are in the center. The center shall 56522  
organize the children in the center in small groups, shall provide 56523  
child-care staff to give continuity of care and supervision to the 56524  
children on a day-by-day basis, and shall ensure that no child is 56525  
left alone or unsupervised. Except as otherwise provided in 56526  
division (E) of this section, the maximum number of children per 56527  
child-care staff member and maximum group size, by age category of 56528  
children, are as follows: 56529

	Maximum Number of		
	Children Per	Maximum	
Age Category	Child-Care	Group	
of Children	Staff Member	Size	
(a) Infants:			56534
(i) Less than twelve			56535
months old	5:1, or		56536
	12:2 if two		56537
	child-care		56538
	staff members		56539
	are in the room	12	56540
(ii) At least twelve			56541
months old, but			56542
less than eighteen			56543
months old	6:1	12	56544
(b) Toddlers:			56545
(i) At least eighteen			56546
months old, but			56547
less than thirty			56548

months old	7:1	14	56549
(ii) At least thirty months old, but less than			56550 56551
three years old	8:1	16	56552
(c) Preschool children:			56553 56554
(i) Three years old	12:1	24	56555
(ii) Four years old and five years old who are not school children	14:1	28	56556 56557 56558 56559
(d) School children:			56560
(i) A child who is enrolled in or is eligible to be enrolled in a grade of kindergarten or above, but is less than eleven years old	18:1	36	56561 56562 56563 56564 56565 56566 56567 56568
(ii) Eleven through fourteen years old	20:1	40	56569 56570
Except as otherwise provided in division (E) of this section, the maximum number of children per child-care staff member and maximum group size requirements of the younger age group shall apply when age groups are combined.			56571 56572 56573 56574
(4)(a) The child day-care center administrator shall show the director both of the following:			56575 56576
(i) Evidence of at least high school graduation or certification of high school equivalency by the state board of education or the appropriate agency of another state;			56577 56578 56579
(ii) Evidence of having completed at least two years of			56580

training in an accredited college, university, or technical 56581  
college, including courses in child development or early childhood 56582  
education, or at least two years of experience in supervising and 56583  
giving daily care to children attending an organized group 56584  
program. 56585

(b) In addition to the requirements of division (B)(4)(a) of 56586  
this section, any administrator employed or designated on or after 56587  
September 1, 1986, shall show evidence of, and any administrator 56588  
employed or designated prior to September 1, 1986, shall show 56589  
evidence within six years after such date of, at least one of the 56590  
following: 56591

(i) Two years of experience working as a child-care staff 56592  
member in a center and at least four courses in child development 56593  
or early childhood education from an accredited college, 56594  
university, or technical college, except that a person who has two 56595  
years of experience working as a child-care staff member in a 56596  
particular center and who has been promoted to or designated as 56597  
administrator of that center shall have one year from the time the 56598  
person was promoted to or designated as administrator to complete 56599  
the required four courses; 56600

(ii) Two years of training, including at least four courses 56601  
in child development or early childhood education from an 56602  
accredited college, university, or technical college; 56603

(iii) A child development associate credential issued by the 56604  
national child development associate credentialing commission; 56605

(iv) An associate or higher degree in child development or 56606  
early childhood education from an accredited college, technical 56607  
college, or university, or a license designated for teaching in an 56608  
associate teaching position in a preschool setting issued by the 56609  
state board of education. 56610

(5) All child-care staff members of a child day-care center 56611

shall be at least eighteen years of age, and shall furnish the 56612  
director evidence of at least high school graduation or 56613  
certification of high school equivalency by the state board of 56614  
education or the appropriate agency of another state or evidence 56615  
of completion of a training program approved by the department of 56616  
job and family services or state board of education, except as 56617  
follows: 56618

(a) A child-care staff member may be less than eighteen years 56619  
of age if the staff member is either of the following: 56620

(i) A graduate of a two-year vocational child-care training 56621  
program approved by the state board of education; 56622

(ii) A student enrolled in the second year of a vocational 56623  
child-care training program approved by the state board of 56624  
education which leads to high school graduation, provided that the 56625  
student performs the student's duties in the child day-care center 56626  
under the continuous supervision of an experienced child-care 56627  
staff member, receives periodic supervision from the vocational 56628  
child-care training program teacher-coordinator in the student's 56629  
high school, and meets all other requirements of this chapter and 56630  
rules adopted pursuant to this chapter. 56631

(b) A child-care staff member shall be exempt from the 56632  
educational requirements of this division if the staff member: 56633

(i) Prior to January 1, 1972, was employed or designated by a 56634  
child day-care center and has been continuously employed since 56635  
either by the same child day-care center employer or at the same 56636  
child day-care center; or 56637

(ii) Is a student enrolled in the second year of a vocational 56638  
child-care training program approved by the state board of 56639  
education which leads to high school graduation, provided that the 56640  
student performs the student's duties in the child day-care center 56641  
under the continuous supervision of an experienced child-care 56642

staff member, receives periodic supervision from the vocational 56643  
child-care training program teacher-coordinator in the student's 56644  
high school, and meets all other requirements of this chapter and 56645  
rules adopted pursuant to this chapter. 56646

(6) Every child day-care staff member of a child day-care 56647  
center annually shall complete fifteen hours of inservice training 56648  
in child development or early childhood education, child abuse 56649  
recognition and prevention, first aid, and in prevention, 56650  
recognition, and management of communicable diseases, until a 56651  
total of forty-five hours of training has been completed, unless 56652  
the staff member furnishes one of the following to the director: 56653

(a) Evidence of an associate or higher degree in child 56654  
development or early childhood education from an accredited 56655  
college, university, or technical college; 56656

(b) A license designated for teaching in an associate 56657  
teaching position in a preschool setting issued by the state board 56658  
of education; 56659

(c) Evidence of a child development associate credential; 56660

(d) Evidence of a preprimary credential from the American 56661  
Montessori society or the association Montessori international. 56662  
For the purposes of division (B)(6) of this section, "hour" means 56663  
sixty minutes. 56664

(7) The administrator of each child day-care center shall 56665  
prepare at least once annually and for each group of children at 56666  
the center a roster of names and telephone numbers of parents, 56667  
custodians, or guardians of each group of children attending the 56668  
center and upon request shall furnish the roster for each group to 56669  
the parents, custodians, or guardians of the children in that 56670  
group. The administrator may prepare a roster of names and 56671  
telephone numbers of all parents, custodians, or guardians of 56672  
children attending the center and upon request shall furnish the 56673

roster to the parents, custodians, or guardians of the children 56674  
who attend the center. The administrator shall not include in any 56675  
roster the name or telephone number of any parent, custodian, or 56676  
guardian who requests the administrator not to include the 56677  
parent's, custodian's, or guardian's name or number and shall not 56678  
furnish any roster to any person other than a parent, custodian, 56679  
or guardian of a child who attends the center. 56680

(C)(1) Each child day-care center shall have on the center 56681  
premises and readily available at all times at least one 56682  
child-care staff member who has completed a course in first aid 56683  
and in prevention, recognition, and management of communicable 56684  
diseases which is approved by the state department of health and a 56685  
staff member who has completed a course in child abuse recognition 56686  
and prevention training which is approved by the department of job 56687  
and family services. 56688

(2) The administrator of each child day-care center shall 56689  
maintain enrollment, health, and attendance records for all 56690  
children attending the center and health and employment records 56691  
for all center employees. The records shall be confidential, 56692  
except as otherwise provided in division (B)(7) of this section 56693  
and except that they shall be disclosed by the administrator to 56694  
the director upon request for the purpose of administering and 56695  
enforcing this chapter and rules adopted pursuant to this chapter. 56696  
Neither the center nor the licensee, administrator, or employees 56697  
of the center shall be civilly or criminally liable in damages or 56698  
otherwise for records disclosed to the director by the 56699  
administrator pursuant to this division. It shall be a defense to 56700  
any civil or criminal charge based upon records disclosed by the 56701  
administrator to the director that the records were disclosed 56702  
pursuant to this division. 56703

(3)(a) Any parent who is the residential parent and legal 56704  
custodian of a child enrolled in a child day-care center and any 56705



custodian or guardian of such a child shall be permitted unlimited 56706  
access to the center during its hours of operation for the 56707  
purposes of contacting their children, evaluating the care 56708  
provided by the center, evaluating the premises of the center, or 56709  
for other purposes approved by the director. A parent of a child 56710  
enrolled in a child day-care center who is not the child's 56711  
residential parent shall be permitted unlimited access to the 56712  
center during its hours of operation for those purposes under the 56713  
same terms and conditions under which the residential parent of 56714  
that child is permitted access to the center for those purposes. 56715  
However, the access of the parent who is not the residential 56716  
parent is subject to any agreement between the parents and, to the 56717  
extent described in division (C)(3)(b) of this section, is subject 56718  
to any terms and conditions limiting the right of access of the 56719  
parent who is not the residential parent, as described in division 56720  
(I) of section 3109.051 of the Revised Code, that are contained in 56721  
a parenting time order or decree issued under that section, 56722  
section 3109.12 of the Revised Code, or any other provision of the 56723  
Revised Code. 56724

(b) If a parent who is the residential parent of a child has 56725  
presented the administrator or the administrator's designee with a 56726  
copy of a parenting time order that limits the terms and 56727  
conditions under which the parent who is not the residential 56728  
parent is to have access to the center, as described in division 56729  
(I) of section 3109.051 of the Revised Code, the parent who is not 56730  
the residential parent shall be provided access to the center only 56731  
to the extent authorized in the order. If the residential parent 56732  
has presented such an order, the parent who is not the residential 56733  
parent shall be permitted access to the center only in accordance 56734  
with the most recent order that has been presented to the 56735  
administrator or the administrator's designee by the residential 56736  
parent or the parent who is not the residential parent. 56737

(c) Upon entering the premises pursuant to division (C)(3)(a) 56738  
or (b) of this section, the parent who is the residential parent 56739  
and legal custodian, the parent who is not the residential parent, 56740  
or the custodian or guardian shall notify the administrator or the 56741  
administrator's designee of the parent's, custodian's, or 56742  
guardian's presence. 56743

(D) The director of job and family services, in addition to 56744  
the rules adopted under division (A) of this section, shall adopt 56745  
rules establishing minimum requirements for child day-care 56746  
centers. The rules shall include, but not be limited to, the 56747  
requirements set forth in divisions (B) and (C) of this section. 56748  
Except as provided in section 5104.07 of the Revised Code, the 56749  
rules shall not change the square footage requirements of division 56750  
(B)(1) or (2) of this section; the maximum number of children per 56751  
child-care staff member and maximum group size requirements of 56752  
division (B)(3) of this section; the educational and experience 56753  
requirements of division (B)(4) of this section; the age, 56754  
educational, and experience requirements of division (B)(5) of 56755  
this section; the number of inservice training hours required 56756  
under division (B)(6) of this section; or the requirement for at 56757  
least annual preparation of a roster for each group of children of 56758  
names and telephone numbers of parents, custodians, or guardians 56759  
of each group of children attending the center that must be 56760  
furnished upon request to any parent, custodian, or guardian of 56761  
any child in that group required under division (B)(7) of this 56762  
section; however, the rules shall provide procedures for 56763  
determining compliance with those requirements. 56764

(E)(1) When age groups are combined, the maximum number of 56765  
children per child-care staff member shall be determined by the 56766  
age of the youngest child in the group, except that when no more 56767  
than one child thirty months of age or older receives services in 56768  
a group in which all the other children are in the next older age 56769

group, the maximum number of children per child-care staff member 56770  
and maximum group size requirements of the older age group 56771  
established under division (B)(3) of this section shall apply. 56772

(2) The maximum number of toddlers or preschool children per 56773  
child-care staff member in a room where children are napping shall 56774  
be twice the maximum number of children per child-care staff 56775  
member established under division (B)(3) of this section if all 56776  
the following criteria are met: 56777

(a) At least one child-care staff member is present in the 56778  
room. 56779

(b) Sufficient child-care staff members are on the child 56780  
day-care center premises to meet the maximum number of children 56781  
per child-care staff member requirements established under 56782  
division (B)(3) of this section. 56783

(c) Naptime preparations are complete and all napping 56784  
children are resting or sleeping on cots. 56785

(d) The maximum number established under division (E)(2) of 56786  
this section is in effect for no more than one and one-half hours 56787  
during a twenty-four-hour day. 56788

(F) The director of job and family services shall adopt rules 56789  
pursuant to Chapter 119. of the Revised Code governing the 56790  
operation of type A family day-care homes, including, but not 56791  
limited to, parent cooperative type A homes, part-time type A 56792  
homes, drop-in type A homes, and school child type A homes, which 56793  
shall reflect the various forms of child day-care and the needs of 56794  
children receiving child day-care. The rules shall include the 56795  
following: 56796

(1) Submission of a site plan and descriptive plan of 56797  
operation to demonstrate how the type A home proposes to meet the 56798  
requirements of this chapter and rules adopted pursuant to this 56799  
chapter for the initial license application; 56800

(2) Standards for ensuring that the physical surroundings of the type A home are safe and sanitary, including, but not limited to, the physical environment, the physical plant, and the equipment of the type A home;

(3) Standards for the supervision, care, and discipline of children receiving child day-care or publicly funded child day-care in the type A home;

(4) Standards for a program of activities, and for play equipment, materials, and supplies, to enhance the development of each child; however, any educational curricula, philosophies, and methodologies that are developmentally appropriate and that enhance the social, emotional, intellectual, and physical development of each child shall be permissible;

(5) Admissions policies and procedures, health care policies and procedures, including, but not limited to, procedures for the isolation of children with communicable diseases, first aid and emergency procedures, procedures for discipline and supervision of children, standards for the provision of nutritious meals and snacks, and procedures for screening children and employees, including, but not limited to, any necessary physical examinations and immunizations;

(6) Methods for encouraging parental participation in the type A home and methods for ensuring that the rights of children, parents, and employees are protected and that the responsibilities of parents and employees are met;

(7) Procedures for ensuring the safety and adequate supervision of children traveling off the premises of the type A home while under the care of a type A home employee;

(8) Procedures for record keeping, organization, and administration;

(9) Procedures for issuing, renewing, denying, and revoking a license that are not otherwise provided for in Chapter 119. of the Revised Code;	56831 56832 56833
(10) Inspection procedures;	56834
(11) Procedures and standards for setting initial and renewal license application fees;	56835 56836
(12) Procedures for receiving, recording, and responding to complaints about type A homes;	56837 56838
(13) Procedures for enforcing section 5104.04 of the Revised Code;	56839 56840
(14) A standard requiring the inclusion, on or after July 1, 1987, of a current department of job and family services toll-free telephone number on each type A home provisional license or license which any person may use to report a suspected violation by the type A home of this chapter or rules adopted pursuant this chapter;	56841 56842 56843 56844 56845 56846
(15) Requirements for the training of administrators and child-care staff members in first aid, in prevention, recognition, and management of communicable diseases, and in child abuse recognition and prevention;	56847 56848 56849 56850
(16) Procedures to be used by licensees for checking the references of potential employees of type A homes and procedures to be used by the director for checking the references of applicants for licenses to operate type A homes;	56851 56852 56853 56854
(17) Standards providing for the special needs of children who are handicapped or who require treatment for health conditions while the child is receiving child day-care or publicly funded child day-care in the type A home;	56855 56856 56857 56858
(18) Standards for the maximum number of children per child-care staff member;	56859 56860

(19) Requirements for the amount of usable indoor floor space	56861
for each child;	56862
(20) Requirements for safe outdoor play space;	56863
(21) Qualifications and training requirements for	56864
administrators and for child-care staff members;	56865
(22) Procedures for granting a parent who is the residential	56866
parent and legal custodian, or a custodian or guardian access to	56867
the type A home during its hours of operation;	56868
(23) Standards for the preparation and distribution of a	56869
roster of parents, custodians, and guardians;	56870
(24) Any other procedures and standards necessary to carry	56871
out this chapter.	56872
(G) The director of job and family services shall adopt rules	56873
pursuant to Chapter 119. of the Revised Code governing the	56874
certification of type B family day-care homes.	56875
(1) The rules shall include procedures, standards, and other	56876
necessary provisions for granting limited certification to type B	56877
family day-care homes that are operated by the following adult	56878
providers:	56879
(a) Persons who provide child day-care for eligible children	56880
who are great-grandchildren, grandchildren, nieces, nephews, or	56881
siblings of the provider or for eligible children whose caretaker	56882
parent is a grandchild, child, niece, nephew, or sibling of the	56883
provider;	56884
(b) Persons who provide child day-care for eligible children	56885
all of whom are the children of the same caretaker parent.	56886
The rules shall require, and shall include procedures for the	56887
director to ensure, that type B family day-care homes that receive	56888
a limited certification provide child day-care to children in a	56889
safe and sanitary manner. With regard to providers who apply for	56890

limited certification, a provider shall be granted a provisional 56891  
limited certification on signing a declaration under oath 56892  
attesting that the provider meets the standards for limited 56893  
certification. Such provisional limited certifications shall 56894  
remain in effect for no more than sixty calendar days and shall 56895  
entitle the provider to offer publicly funded child day-care 56896  
during the provisional period. Except as otherwise provided in 56897  
division (G)(1) of this section, prior to the expiration of the 56898  
provisional limited certificate, a county department of job and 56899  
family services shall inspect the home and shall grant limited 56900  
certification to the provider if the provider meets the 56901  
requirements of this division. Limited certificates remain valid 56902  
for two years unless earlier revoked. Except as otherwise provided 56903  
in division (G)(1) of this section, providers operating under 56904  
limited certification shall be inspected annually. 56905

If a provider is a person described in division (G)(1)(a) of 56906  
this section or a person described in division (G)(1)(b) of this 56907  
section who is a friend of the caretaker parent, the provider and 56908  
the caretaker parent may verify in writing to the county 56909  
department of job and family services that minimum health and 56910  
safety requirements are being met in the home. If such 56911  
verification is provided, the county shall waive any inspection 56912  
and any criminal records check required by this chapter and grant 56913  
limited certification to the provider. 56914

(2) The rules shall provide for safeguarding the health, 56915  
safety, and welfare of children receiving child day-care or 56916  
publicly funded child day-care in a certified type B home and 56917  
shall include the following: 56918

(a) Standards for ensuring that the type B home and the 56919  
physical surroundings of the type B home are safe and sanitary, 56920  
including, but not limited to, physical environment, physical 56921  
plant, and equipment; 56922

(b) Standards for the supervision, care, and discipline of children receiving child day-care or publicly funded child day-care in the home;	56923 56924 56925
(c) Standards for a program of activities, and for play equipment, materials, and supplies to enhance the development of each child; however, any educational curricula, philosophies, and methodologies that are developmentally appropriate and that enhance the social, emotional, intellectual, and physical development of each child shall be permissible;	56926 56927 56928 56929 56930 56931
(d) Admission policies and procedures, health care, first aid and emergency procedures, procedures for the care of sick children, procedures for discipline and supervision of children, nutritional standards, and procedures for screening children and authorized providers, including, but not limited to, any necessary physical examinations and immunizations;	56932 56933 56934 56935 56936 56937
(e) Methods of encouraging parental participation and ensuring that the rights of children, parents, and authorized providers are protected and the responsibilities of parents and authorized providers are met;	56938 56939 56940 56941
(f) Standards for the safe transport of children when under the care of authorized providers;	56942 56943
(g) Procedures for issuing, renewing, denying, refusing to renew, or revoking certificates;	56944 56945
(h) Procedures for the inspection of type B family day-care homes that require, at a minimum, that each type B family day-care home be inspected prior to certification to ensure that the home is safe and sanitary;	56946 56947 56948 56949
(i) Procedures for record keeping and evaluation;	56950
(j) Procedures for receiving, recording, and responding to complaints;	56951 56952



(k) Standards providing for the special needs of children who are handicapped or who receive treatment for health conditions while the child is receiving child day-care or publicly funded child day-care in the type B home;	56953 56954 56955 56956
(l) Requirements for the amount of usable indoor floor space for each child;	56957 56958
(m) Requirements for safe outdoor play space;	56959
(n) Qualification and training requirements for authorized providers;	56960 56961
(o) Procedures for granting a parent who is the residential parent and legal custodian, or a custodian or guardian access to the type B home during its hours of operation;	56962 56963 56964
(p) Any other procedures and standards necessary to carry out this chapter.	56965 56966
(H) The director shall adopt rules pursuant to Chapter 119. of the Revised Code governing the certification of in-home aides. The rules shall include procedures, standards, and other necessary provisions for granting limited certification to in-home aides who provide child day-care for eligible children who are great-grandchildren, grandchildren, nieces, nephews, or siblings of the in-home aide or for eligible children whose caretaker parent is a grandchild, child, niece, nephew, or sibling of the in-home aide. The rules shall require, and shall include procedures for the director to ensure, that in-home aides that receive a limited certification provide child day-care to children in a safe and sanitary manner. The rules shall provide for safeguarding the health, safety, and welfare of children receiving publicly funded child day-care in their own home and shall include the following:	56967 56968 56969 56970 56971 56972 56973 56974 56975 56976 56977 56978 56979 56980 56981
(1) Standards for ensuring that the child's home and the	56982

physical surroundings of the child's home are safe and sanitary,	56983
including, but not limited to, physical environment, physical	56984
plant, and equipment;	56985
(2) Standards for the supervision, care, and discipline of	56986
children receiving publicly funded child day-care in their own	56987
home;	56988
(3) Standards for a program of activities, and for play	56989
equipment, materials, and supplies to enhance the development of	56990
each child; however, any educational curricula, philosophies, and	56991
methodologies that are developmentally appropriate and that	56992
enhance the social, emotional, intellectual, and physical	56993
development of each child shall be permissible;	56994
(4) Health care, first aid, and emergency procedures,	56995
procedures for the care of sick children, procedures for	56996
discipline and supervision of children, nutritional standards, and	56997
procedures for screening children and in-home aides, including,	56998
but not limited to, any necessary physical examinations and	56999
immunizations;	57000
(5) Methods of encouraging parental participation and	57001
ensuring that the rights of children, parents, and in-home aides	57002
are protected and the responsibilities of parents and in-home	57003
aides are met;	57004
(6) Standards for the safe transport of children when under	57005
the care of in-home aides;	57006
(7) Procedures for issuing, renewing, denying, refusing to	57007
renew, or revoking certificates;	57008
(8) Procedures for inspection of homes of children receiving	57009
publicly funded child day-care in their own homes;	57010
(9) Procedures for record keeping and evaluation;	57011
(10) Procedures for receiving, recording, and responding to	57012

complaints;	57013
(11) Qualifications and training requirements for in-home aides;	57014 57015
(12) Standards providing for the special needs of children who are handicapped or who receive treatment for health conditions while the child is receiving publicly funded child day-care in the child's own home;	57016 57017 57018 57019
(13) Any other procedures and standards necessary to carry out this chapter.	57020 57021
(I) To the extent that any rules adopted for the purposes of this section require a health care professional to perform a physical examination, the rules shall include as a health care professional a physician assistant, a clinical nurse specialist, a certified nurse practitioner, or a certified nurse-midwife.	57022 57023 57024 57025 57026
(J) <u>(1)</u> The director of job and family services shall <del>send</del> <u>copies do all of the following:</u>	57027 57028
<u>(a) Send to each licensee notice of proposed rules to each licensee and each county director of job and family services and shall give governing the licensure of child day-care centers and type A homes;</u>	57029 57030 57031 57032
<u>(b) Give</u> public notice of hearings regarding the rules to each licensee <del>and each county director of job and family services</del> at least thirty days prior to the date of the public hearing, in accordance with section 119.03 of the Revised Code- <u>;</u>	57033 57034 57035 57036
<u>(c) Prior to the effective date of a rule, the director of job and family services shall provide copies, in either paper or electronic form, a copy of the adopted rule to each licensee and each county director of job and family services.</u>	57037 57038 57039 57040
<u>(2) The director shall do all of the following:</u>	57041
<u>(a) Send to each county director of job and family services a</u>	57042

notice of proposed rules governing the certification of type B 57043  
family homes and in-home aides that includes an internet web site 57044  
address where the proposed rules can be viewed; 57045

(b) Give public notice of hearings regarding the proposed 57046  
rules not less than thirty days in advance; 57047

(c) Provide to each county director of job and family 57048  
services an electronic copy of each adopted rule prior to the 57049  
rule's effective date. 57050

(3) The county director of job and family services shall send 57051  
copies of proposed rules to each authorized provider and in-home 57052  
aide and shall give public notice of hearings regarding the rules 57053  
to each authorized provider and in-home aide at least thirty days 57054  
prior to the date of the public hearing, in accordance with 57055  
section 119.03 of the Revised Code. Prior to the effective date of 57056  
a rule, the county director of job and family services shall 57057  
provide copies of the adopted rule to each authorized provider and 57058  
in-home aide. 57059

(4) Additional copies of proposed and adopted rules shall be 57060  
made available by the director of job and family services to the 57061  
public on request at no charge. 57062

(K) The director of job and family services shall review all 57063  
rules adopted pursuant to this chapter at least once every seven 57064  
years. 57065

(L) Notwithstanding any provision of the Revised Code, the 57066  
director of job and family services shall not regulate in any way 57067  
under this chapter or rules adopted pursuant to this chapter, 57068  
instruction in religious or moral doctrines, beliefs, or values. 57069

**Sec. 5104.02.** (A) The director of job and family services is 57070  
responsible for the licensing of child day-care centers and type A 57071  
family day-care homes, and for the enforcement of this chapter and 57072

of rules promulgated pursuant to this chapter. No person, firm, 57073  
organization, institution, or agency shall operate, establish, 57074  
manage, conduct, or maintain a child day-care center or type A 57075  
family day-care home without a license issued under section 57076  
5104.03 of the Revised Code. The current license shall be posted 57077  
in a conspicuous place in the center or type A home that is 57078  
accessible to parents, custodians, or guardians and employees of 57079  
the center or type A home at all times when the center or type A 57080  
home is in operation. 57081

(B) A person, firm, institution, organization, or agency 57082  
operating any of the following programs is exempt from the 57083  
requirements of this chapter: 57084

(1) A program of child day-care that operates for two or less 57085  
consecutive weeks; 57086

(2) Child day-care in places of worship during religious 57087  
activities during which children are cared for while at least one 57088  
parent, guardian, or custodian of each child is participating in 57089  
such activities and is readily available; 57090

(3) Religious activities which do not provide child day-care; 57091

(4) Supervised training, instruction, or activities of 57092  
children in specific areas, including, but not limited to: art; 57093  
drama; dance; music; gymnastics, swimming, or another athletic 57094  
skill or sport; computers; or an educational subject conducted on 57095  
an organized or periodic basis no more than one day a week and for 57096  
no more than six hours duration; 57097

(5) Programs in which the director determines that at least 57098  
one parent, custodian, or guardian of each child is on the 57099  
premises of the facility offering child day-care and is readily 57100  
accessible at all times, except that child day-care provided on 57101  
the premises at which a parent, custodian, or guardian is employed 57102  
more than two and one-half hours a day shall be licensed in 57103

accordance with division (A) of this section; 57104

(6)(a) Programs that provide child day-care funded and 57105  
regulated or operated and regulated by state departments other 57106  
than the department of job and family services or the state board 57107  
of education when the director of job and family services has 57108  
determined that the rules governing the program are equivalent to 57109  
or exceed the rules promulgated pursuant to this chapter. 57110

Notwithstanding any exemption from regulation under this 57111  
chapter, each state department shall submit to the director of job 57112  
and family services a copy of the rules that govern programs that 57113  
provide child day-care and are regulated or operated and regulated 57114  
by the department. Annually, each state department shall submit to 57115  
the director a report for each such program it regulates or 57116  
operates and regulates that includes the following information: 57117

(i) The site location of the program; 57118

(ii) The maximum number of infants, toddlers, preschool 57119  
children, or school children served by the program at one time; 57120

(iii) The number of adults providing child day-care for the 57121  
number of infants, toddlers, preschool children, or school 57122  
children; 57123

(iv) Any changes in the rules made subsequent to the time 57124  
when the rules were initially submitted to the director. 57125

The director shall maintain a record of the child day-care 57126  
information submitted by other state departments and shall provide 57127  
this information upon request to the general assembly or the 57128  
public. 57129

(b) Child day-care programs conducted by boards of education 57130  
or by chartered nonpublic schools that are conducted in school 57131  
buildings and that provide child day-care to school children only 57132  
shall be exempt from meeting or exceeding rules promulgated 57133

pursuant to this chapter.	57134
(7) Any preschool program or school child program, <u>except a head start program</u> , that is subject to licensure by the department of education under sections 3301.52 to 3301.59 of the Revised Code.	57135 57136 57137 57138
(8) Any program providing child day-care that meets all of the following requirements and, on October 20, 1987, was being operated by a nonpublic school that holds a charter issued by the state board of education for kindergarten only:	57139 57140 57141 57142
(a) The nonpublic school has given the notice to the state board and the director of job and family services required by Section 4 of Substitute House Bill No. 253 of the 117th general assembly;	57143 57144 57145 57146
(b) The nonpublic school continues to be chartered by the state board for kindergarten, or receives and continues to hold a charter from the state board for kindergarten through grade five;	57147 57148 57149
(c) The program is conducted in a school building;	57150
(d) The program is operated in accordance with rules promulgated by the state board under sections 3301.52 to 3301.57 of the Revised Code.	57151 57152 57153
(9) A youth development program operated outside of school hours by a community-based center to which all of the following apply:	57154 57155 57156
(a) The children enrolled in the program are under nineteen years of age and enrolled in or eligible to be enrolled in a grade of kindergarten or above.	57157 57158 57159
(b) The program provides informal child care and at least two of the following supervised activities: educational, recreational, culturally enriching, social, and personal development activities.	57160 57161 57162
(c) The state board of education has approved the program's	57163

participation in the child and adult care food program as an 57164  
outside-school-hours care center pursuant to standards established 57165  
under section 3313.813 of the Revised Code. 57166

(d) The community-based center operating the program is 57167  
exempt from federal income taxation pursuant to 26 U.S.C. 501(a) 57168  
and (c)(3). 57169

**Sec. 5104.04.** (A) The department of job and family services 57170  
shall establish procedures to be followed in investigating, 57171  
inspecting, and licensing child day-care centers and type A family 57172  
day-care homes. 57173

(B)(1) The department shall, at least twice during every 57174  
twelve-month period of operation of a center or type A home, 57175  
inspect the center or type A home. The department shall inspect a 57176  
part-time center or part-time type A home at least once during 57177  
every twelve-month period of operation. The department shall 57178  
provide a written inspection report to the licensee within a 57179  
reasonable time after each inspection. The licensee shall display 57180  
all written reports of inspections conducted during the current 57181  
licensing period in a conspicuous place in the center or type A 57182  
home. 57183

At least one inspection shall be unannounced and all 57184  
inspections may be unannounced. No person, firm, organization, 57185  
institution, or agency shall interfere with the inspection of a 57186  
center or type A home by any state or local official engaged in 57187  
performing duties required of the state or local official by 57188  
Chapter 5104. of the Revised Code or rules adopted pursuant to 57189  
Chapter 5104. of the Revised Code, including inspecting the center 57190  
or type A home, reviewing records, or interviewing licensees, 57191  
employees, children, or parents. 57192

Upon receipt of any complaint that a center or type A home is 57193  
out of compliance with the requirements of Chapter 5104. of the 57194



Revised Code or rules adopted pursuant to Chapter 5104. of the 57195  
Revised Code, the department shall investigate and may inspect a 57196  
center or type A home. 57197

(2) If the department implements an instrument-based program 57198  
monitoring information system, it may use an indicator checklist 57199  
to comply with division (B)(1) of this section. 57200

(3) The department shall, at least once during every 57201  
twelve-month period of operation of a center or type A home, 57202  
collect information concerning the amounts charged by the center 57203  
or home for providing child day-care services for use in 57204  
establishing rates of reimbursement and payment pursuant to 57205  
section 5104.30 of the Revised Code. 57206

(C) In the event a licensed center or type A home is 57207  
determined to be out of compliance with the requirements of 57208  
Chapter 5104. of the Revised Code or rules adopted pursuant to 57209  
Chapter 5104. of the Revised Code, the department shall notify the 57210  
licensee of the center or type A home in writing regarding the 57211  
nature of the violation, what must be done to correct the 57212  
violation, and by what date the correction must be made. If the 57213  
correction is not made by the date established by the department, 57214  
the department may commence action under Chapter 119. of the 57215  
Revised Code to revoke the license. 57216

(D) The department may deny or revoke a license, or refuse to 57217  
renew a license of a center or type A home, if the applicant 57218  
knowingly makes a false statement on the application, does not 57219  
comply with the requirements of Chapter 5104. or rules adopted 57220  
pursuant to Chapter 5104. of the Revised Code, or has pleaded 57221  
guilty to or been convicted of an offense described in section 57222  
5104.09 of the Revised Code. 57223

(E) If the department finds, after notice and hearing 57224  
pursuant to Chapter 119. of the Revised Code, that any person, 57225

firm, organization, institution, or agency licensed under section 57226  
5104.03 of the Revised Code is in violation of any provision of 57227  
Chapter 5104. of the Revised Code or rules adopted pursuant to 57228  
Chapter 5104. of the Revised Code, the department may issue an 57229  
order of revocation to the center or type A home revoking the 57230  
license previously issued by the department. Upon the issuance of 57231  
any order of revocation, the person whose license is revoked may 57232  
appeal in accordance with section 119.12 of the Revised Code. 57233

(F) The surrender of a center or type A home license to the 57234  
department or the withdrawal of an application for licensure by 57235  
the owner or administrator of the center or type A home shall not 57236  
prohibit the department from instituting any of the actions set 57237  
forth in this section. 57238

(G) Whenever the department receives a complaint, is advised, 57239  
or otherwise has any reason to believe that a center or type A 57240  
home is providing child day-care without a license issued or 57241  
renewed pursuant to section 5104.03 and is not exempt from 57242  
licensing pursuant to section 5104.02 of the Revised Code, the 57243  
department shall investigate the center or type A home and may 57244  
inspect the areas children have access to or areas necessary for 57245  
the care of children in the center or type A home during suspected 57246  
hours of operation to determine whether the center or type A home 57247  
is subject to the requirements of Chapter 5104. or rules adopted 57248  
pursuant to Chapter 5104. of the Revised Code. 57249

(H) The department, upon determining that the center or type 57250  
A home is operating without a license, shall notify the attorney 57251  
general, the prosecuting attorney of the county in which the 57252  
center or type A home is located, or the city attorney, village 57253  
solicitor, or other chief legal officer of the municipal 57254  
corporation in which the center or type A home is located, that 57255  
the center or type A home is operating without a license. Upon 57256  
receipt of the notification, the attorney general, prosecuting 57257

attorney, city attorney, village solicitor, or other chief legal 57258  
officer of a municipal corporation shall file a complaint in the 57259  
court of common pleas of the county in which the center or type A 57260  
home is located requesting that the court grant an order enjoining 57261  
the owner from operating the center or type A home. The court 57262  
shall grant such injunctive relief upon a showing that the 57263  
respondent named in the complaint is operating a center or type A 57264  
home and is doing so without a license. 57265

(I) The department shall prepare an annual report on 57266  
inspections conducted under this section. The report shall include 57267  
the number of inspections conducted, the number and types of 57268  
violations found, and the steps taken to address the violations. 57269  
The department shall file the report with the governor, the 57270  
president and minority leader of the senate, and the speaker and 57271  
minority leader of the house of representatives on or before the 57272  
first day of January of each year, beginning in 1999. 57273

**Sec. 5104.30.** (A) The department of job and family services 57274  
is hereby designated as the state agency responsible for 57275  
administration and coordination of federal and state funding for 57276  
publicly funded child day-care in this state. Publicly funded 57277  
child day-care shall be provided to the following: 57278

(1) Recipients of transitional child day-care as provided 57279  
under section 5104.34 of the Revised Code; 57280

(2) Participants in the Ohio works first program established 57281  
under Chapter 5107. of the Revised Code; 57282

(3) Individuals who would be participating in the Ohio works 57283  
first program if not for a sanction under section 5107.16 of the 57284  
Revised Code and who continue to participate in a work activity, 57285  
developmental activity, or alternative work activity pursuant to 57286  
an assignment under section 5107.42 of the Revised Code; 57287

(4) A family receiving publicly funded child day-care on 57288  
October 1, 1997, until the family's income reaches one hundred 57289  
fifty per cent of the federal poverty line; 57290

(5) Subject to available funds, other individuals determined 57291  
eligible in accordance with rules adopted under section 5104.38 of 57292  
the Revised Code. 57293

The department shall apply to the United States department of 57294  
health and human services for authority to operate a coordinated 57295  
program for publicly funded child day-care, if the director of job 57296  
and family services determines that the application is necessary. 57297  
For purposes of this section, the department of job and family 57298  
services may enter into agreements with other state agencies that 57299  
are involved in regulation or funding of child day-care. The 57300  
department shall consider the special needs of migrant workers 57301  
when it administers and coordinates publicly funded child day-care 57302  
and shall develop appropriate procedures for accommodating the 57303  
needs of migrant workers for publicly funded child day-care. 57304

(B) The department of job and family services shall 57305  
distribute state and federal funds for publicly funded child 57306  
day-care, including appropriations of state funds for publicly 57307  
funded child day-care and appropriations of federal funds ~~for~~ 57308  
~~publicly funded child day-care available~~ under Title XX of the 57309  
~~"Social Security Act," 88 Stat. 2337 (1974), 42 U.S.C.A. 1397, as~~ 57310  
~~amended, and the child care block grant act, Title IV-A, and Title~~ 57311  
XX. The department may use any state funds appropriated for 57312  
publicly funded child day-care as the state share required to 57313  
match any federal funds appropriated for publicly funded child 57314  
day-care. 57315

(C) ~~The department may~~ In the use of federal funds available 57316  
under the child care block grant act, all of the following apply: 57317

(1) The department may use the federal funds to hire staff to 57318

prepare any rules required under this chapter and to administer 57319  
and coordinate federal and state funding for publicly funded child 57320  
day-care. 57321

(2) Not more than five per cent of the aggregate amount of 57322  
~~those~~ the federal funds received for a fiscal year may be expended 57323  
for administrative costs. ~~The~~ 57324

(3) ~~The~~ department shall allocate and use at least four per 57325  
cent of the federal funds for the following: 57326

~~(1)~~(a) Activities designed to provide comprehensive consumer 57327  
education to parents and the public; 57328

~~(2)~~(b) Activities that increase parental choice; 57329

~~(3)~~(c) Activities, including child day-care resource and 57330  
referral services, designed to improve the quality, and increase 57331  
the supply, of child day-care. 57332

~~(D)~~(4) The department shall ensure that ~~any~~ the federal funds 57333  
~~received by the state under the child care block grant act~~ will be 57334  
used only to supplement, and will not be used to supplant, 57335  
federal, state, and local funds available on the effective date of 57336  
~~that~~ the child care block grant act for publicly funded child 57337  
day-care and related programs. A county department of job and 57338  
family services may purchase child day-care from funds obtained 57339  
through any other means. 57340

~~(E)~~(D) The department shall encourage the development of 57341  
suitable child day-care throughout the state, especially in areas 57342  
with high concentrations of recipients of public assistance and 57343  
families with low incomes. The department shall encourage the 57344  
development of suitable child day-care designed to accommodate the 57345  
special needs of migrant workers. On request, the department, 57346  
through its employees or contracts with state or community child 57347  
day-care resource and referral service organizations, shall 57348  
provide consultation to groups and individuals interested in 57349

developing child day-care. The department of job and family 57350  
services may enter into interagency agreements with the department 57351  
of education, the board of regents, the department of development, 57352  
and other state agencies and entities whenever the cooperative 57353  
efforts of the other state agencies and entities are necessary for 57354  
the department of job and family services to fulfill its duties 57355  
and responsibilities under this chapter. 57356

The department may develop and maintain a registry of persons 57357  
providing child day-care. The director may adopt rules pursuant to 57358  
Chapter 119. of the Revised Code establishing procedures and 57359  
requirements for the registry's administration. 57360

~~(F)~~(E)(1) The director shall adopt rules in accordance with 57361  
Chapter 119. of the Revised Code establishing both of the 57362  
following: 57363

(a) Reimbursement ceilings for providers of publicly funded 57364  
child day-care; 57365

(b) A procedure for reimbursing and paying providers of 57366  
publicly funded child day-care. 57367

(2) In establishing reimbursement ceilings under division 57368  
~~(F)~~(E)(1)(a) of this section, the director shall do all of the 57369  
following: 57370

(a) Use the information obtained under division (B)(3) of 57371  
section 5104.04 of the Revised Code; 57372

(b) Establish an enhanced reimbursement ceiling for providers 57373  
who provide child day-care for caretaker parents who work 57374  
nontraditional hours; 57375

(c) For a type B family day-care home provider that has 57376  
received limited certification pursuant to rules adopted under 57377  
division (G)(1) of section 5104.011 of the Revised Code, establish 57378  
a reimbursement ceiling that is the following: 57379

(i) If the provider is a person described in division 57380  
(G)(1)(a) of section 5104.011 of the Revised Code, seventy-five 57381  
per cent of the reimbursement ceiling that applies to a type B 57382  
family day-care home certified by the same county department of 57383  
job and family services pursuant to section 5104.11 of the Revised 57384  
Code; 57385

(ii) If the provider is a person described in division 57386  
(G)(1)(b) of section 5104.011 of the Revised Code, sixty per cent 57387  
of the reimbursement ceiling that applies to a type B family 57388  
day-care home certified by the same county department pursuant to 57389  
section 5104.11 of the Revised Code. 57390

(3) In establishing reimbursement ceilings under division 57391  
~~(F)~~(E)(1)(a) of this section, the director may establish different 57392  
reimbursement ceilings based on any of the following: 57393

(a) Geographic location of the provider; 57394

(b) Type of care provided; 57395

(c) Age of the child served; 57396

(d) Special needs of the child served; 57397

(e) Whether the expanded hours of service are provided; 57398

(f) Whether weekend service is provided; 57399

(g) Whether the provider has exceeded the minimum 57400  
requirements of state statutes and rules governing child day-care; 57401

(h) Any other factors the director considers appropriate. 57402

**Sec. 5104.32.** (A) Except as provided in division (C) of this 57403  
section, all purchases of publicly funded child day-care shall be 57404  
made under a contract entered into by a licensed child day-care 57405  
center, licensed type A family day-care home, certified type B 57406  
family day-care home, certified in-home aide, approved child day 57407  
camp, licensed preschool program, licensed school child program, 57408

or border state child day-care provider and the county department 57409  
of job and family services. A county department of job and family 57410  
services may enter into a contract with a provider for publicly 57411  
funded child day-care for a specified period of time or upon a 57412  
continuous basis for an unspecified period of time. All contracts 57413  
for publicly funded child day-care shall be contingent upon the 57414  
availability of state and federal funds. The department of job and 57415  
family services shall prescribe a standard form to be used for all 57416  
contracts for the purchase of publicly funded child day-care, 57417  
regardless of the source of public funds used to purchase the 57418  
child day-care. To the extent permitted by federal law and 57419  
notwithstanding any other provision of the Revised Code that 57420  
regulates state or county contracts or contracts involving the 57421  
expenditure of state, county, or federal funds, all contracts for 57422  
publicly funded child day-care shall be entered into in accordance 57423  
with the provisions of this chapter and are exempt from any other 57424  
provision of the Revised Code that regulates state or county 57425  
contracts or contracts involving the expenditure of state, county, 57426  
or federal funds. 57427

(B) Each contract for publicly funded child day-care shall 57428  
specify at least the following: 57429

(1) That the provider of publicly funded child day-care 57430  
agrees to be paid for rendering services at the lowest of the rate 57431  
customarily charged by the provider for children enrolled for 57432  
child day-care, the reimbursement ceiling or rate of payment 57433  
established pursuant to section 5104.30 of the Revised Code, or a 57434  
rate the county department negotiates with the provider; 57435

(2) That, if a provider provides child day-care to an 57436  
individual potentially eligible for publicly funded child day-care 57437  
who is subsequently determined to be eligible, the county 57438  
department agrees to pay for all child day-care provided between 57439  
the date the county department receives the individual's completed 57440



application and the date the individual's eligibility is 57441  
determined; 57442

(3) Whether the county department of job and family services, 57443  
the provider, or a child day-care resource and referral service 57444  
organization will make eligibility determinations, whether the 57445  
provider or a child day-care resource and referral service 57446  
organization will be required to collect information to be used by 57447  
the county department to make eligibility determinations, and the 57448  
time period within which the provider or child day-care resource 57449  
and referral service organization is required to complete required 57450  
eligibility determinations or to transmit to the county department 57451  
any information collected for the purpose of making eligibility 57452  
determinations; 57453

(4) That the provider, other than a border state child 57454  
day-care provider or except as provided in division (B) of section 57455  
3301.37 of the Revised Code, shall continue to be licensed, 57456  
approved, or certified pursuant to this chapter ~~or sections~~ 57457  
~~3301.52 to 3301.59 of the Revised Code~~ and shall comply with all 57458  
standards and other requirements in this chapter ~~and those~~ 57459  
~~sections~~ and in rules adopted pursuant to this chapter ~~or those~~ 57460  
~~sections~~ for maintaining the provider's license, approval, or 57461  
certification; 57462

(5) That, in the case of a border state child day-care 57463  
provider, the provider shall continue to be licensed, certified, 57464  
or otherwise approved by the state in which the provider is 57465  
located and shall comply with all standards and other requirements 57466  
established by that state for maintaining the provider's license, 57467  
certificate, or other approval; 57468

(6) Whether the provider will be paid by the county 57469  
department of job and family services or the state department of 57470  
job and family services; 57471

(7) That the contract is subject to the availability of state 57472  
and federal funds. 57473

(C) Unless specifically prohibited by federal law, the county 57474  
department of job and family services shall give individuals 57475  
eligible for publicly funded child day-care the option of 57476  
obtaining certificates for payment that the individual may use to 57477  
purchase services from any provider qualified to provide publicly 57478  
funded child day-care under section 5104.31 of the Revised Code. 57479  
Providers of publicly funded child day-care may present these 57480  
certificates for payment for reimbursement in accordance with 57481  
rules that the director of job and family services shall adopt. 57482  
Only providers may receive reimbursement for certificates for 57483  
payment. The value of the certificate for payment shall be based 57484  
on the lowest of the rate customarily charged by the provider, the 57485  
reimbursement ceiling or rate of payment established pursuant to 57486  
section 5104.30 of the Revised Code, or a rate the county 57487  
department negotiates with the provider. The county department may 57488  
provide the certificates for payment to the individuals or may 57489  
contract with child day-care providers or child day-care resource 57490  
and referral service organizations that make determinations of 57491  
eligibility for publicly funded child day-care pursuant to 57492  
contracts entered into under section 5104.34 of the Revised Code 57493  
for the providers or resource and referral service organizations 57494  
to provide the certificates for payment to individuals whom they 57495  
determine are eligible for publicly funded child day-care. 57496

For each six-month period a provider of publicly funded child 57497  
day-care provides publicly funded child day-care to the child of 57498  
an individual given certificates ~~of~~ for payment, the individual 57499  
shall provide the provider certificates for days the provider 57500  
would have provided publicly funded child day-care to the child 57501  
had the child been present. County departments shall specify the 57502  
maximum number of days providers will be provided certificates of 57503

payment for days the provider would have provided publicly funded 57504  
child day-care had the child been present. The maximum number of 57505  
days shall not exceed ten days in a six-month period during which 57506  
publicly funded child day-care is provided to the child regardless 57507  
of the number of providers that provide publicly funded child 57508  
day-care to the child during that period. 57509

**Sec. 5107.02.** As used in this chapter: 57510

(A) "Adult" means an individual who is not a minor child. 57511

(B) "Assistance group" means a group of individuals treated 57512  
as a unit for purposes of determining eligibility for and the 57513  
amount of assistance provided under Ohio works first. 57514

(C) "Custodian" means an individual who has legal custody, as 57515  
defined in section 2151.011 of the Revised Code, of a minor child 57516  
or comparable status over a minor child created by a court of 57517  
competent jurisdiction in another state. 57518

(D) "Guardian" means an individual that is granted authority 57519  
by a probate court pursuant to Chapter 2111. of the Revised Code, 57520  
or a court of competent jurisdiction in another state, to exercise 57521  
parental rights over a minor child to the extent provided in the 57522  
court's order and subject to residual parental rights of the minor 57523  
child's parents. 57524

(E) "Minor child" means either of the following: 57525

(1) An individual who has not attained age eighteen; 57526

(2) An individual who has not attained age nineteen and is a 57527  
full-time student in a secondary school or in the equivalent level 57528  
of vocational or technical training. 57529

(F) "Minor head of household" means a minor child who is 57530  
either of the following: 57531

(1) ~~At~~ Is married, at least six months pregnant, and a member 57532

of an assistance group that does not include an adult;	57533
(2) A <u>Is married and is</u> a parent of a child included in the same assistance group that does not include an adult.	57534 57535
(G) "Ohio works first" means the program established by this chapter known as temporary assistance for needy families in Title IV-A.	57536 57537 57538
(H) "Payment standard" means the amount specified in rules adopted under section 5107.05 of the Revised Code that is the maximum amount of cash assistance an assistance group may receive under Ohio works first from state and federal funds.	57539 57540 57541 57542
(I) "Specified relative" means the following individuals who are age eighteen or older:	57543 57544
(1) The following individuals related by blood or adoption:	57545
(a) Grandparents, including grandparents with the prefix "great," "great-great," or "great-great-great";	57546 57547
(b) Siblings;	57548
(c) Aunts, uncles, nephews, and nieces, including such relatives with the prefix "great," "great-great," "grand," or "great-grand";	57549 57550 57551
(d) First cousins and first cousins once removed.	57552
(2) Stepparents and stepsiblings;	57553
(3) Spouses and former spouses of individuals named in division (I)(1) or (2) of this section.	57554 57555
(J) "Title IV-A" or "Title IV-D" means Title IV-A or Title IV-D of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as amended.	57556 57557 57558
<b>Sec. 5107.30.</b> (A) As used in this section:	57559
(1) "LEAP program" means the learning, earning, and parenting	57560

program. 57561

(2) "Teen" means a participant of Ohio works first who is 57562  
under age ~~twenty~~ eighteen or is age eighteen and in school and is 57563  
a natural or adoptive parent or is pregnant. 57564

(3) "School" means an educational program that is designed to 57565  
lead to the attainment of a high school diploma or the equivalent 57566  
of a high school diploma. 57567

(B) The director of job and family services may adopt rules 57568  
under section 5107.05 of the Revised Code, to the extent that such 57569  
rules are consistent with federal law, to do all of the following: 57570

(1) Define "good cause" and "the equivalent of a high school 57571  
diploma" for the purposes of this section; 57572

(2) Conduct ~~one or more special demonstration programs a~~ 57573  
program titled the "LEAP program" and establish requirements 57574  
governing the program. The purpose of the LEAP program is to 57575  
encourage teens to complete school. 57576

(3) Require every teen who is subject to LEAP program 57577  
requirements to attend school in accordance with the requirements 57578  
governing the program unless the teen shows good cause for not 57579  
attending school. The department shall provide, in addition to the 57580  
cash assistance payment provided under Ohio works first, an 57581  
incentive payment, in an amount determined by the department, to 57582  
every teen who is participating in the LEAP program and attends 57583  
school in accordance with the requirements governing the program. 57584  
The department shall reduce the cash assistance payment, in an 57585  
amount determined by the department, under Ohio works first to 57586  
every teen participating in the LEAP program who fails or refuses, 57587  
without good cause, to ~~attend school in accordance with~~ meet the 57588  
requirements governing the program. 57589

(4) Require every teen who is subject to LEAP program 57590  
requirements to enter into a written agreement with the county 57591

department of job and family services that provides all of the 57592  
following: 57593

(a) The teen, to be eligible to receive the incentive payment 57594  
under division (B)(3) of this section, must ~~attend school in~~ 57595  
~~accordance with~~ meet the requirements of the LEAP program. 57596

(b) The county department will provide the incentive payment 57597  
to the teen if the teen ~~attends school;~~ meets the requirements of  
the LEAP program. 57598  
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(c) The county department will reduce the cash assistance 57600  
payment under Ohio works first if the teen fails or refuses 57601  
without good cause to attend school in accordance with the 57602  
requirements governing the LEAP program. 57603

~~(5) Evaluate the demonstration programs established under 57604  
this section. In conducting the evaluations, the department of job 57605  
and family services shall select control groups of teens who are 57606  
otherwise subject to the LEAP program requirements. 57607~~

(C) A ~~teen~~ minor head of household who is participating in 57608  
the LEAP program shall be considered to be participating in a work 57609  
activity for the purpose of sections 5107.40 to 5107.69 of the 57610  
Revised Code. However, the ~~teen~~ minor head of household is not 57611  
subject to the requirements or sanctions of those sections, ~~unless~~ 57612  
~~the teen is over age eighteen and meets the LEAP program~~ 57613  
~~requirements by participating regularly in work activities,~~ 57614  
~~developmental activities, or alternative work activities under~~ 57615  
~~those sections.~~ 57616

(D) Subject to the availability of funds, county departments 57617  
of job and family services shall provide for LEAP participants to 57618  
receive support services the county department determines to be 57619  
necessary for LEAP participation. Support services may include 57620  
publicly funded child day-care under Chapter 5104. of the Revised 57621  
Code, transportation, and other services. 57622

**Sec. 5107.37.** ~~An~~ (A) Except as provided in division (B) of this section, an individual who resides in a county home, city infirmary, jail, or other public institution is not eligible to participate in Ohio works first. 57623  
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(B) Division (A) of this section does not apply to a minor child residing with the minor child's mother who participates in a prison nursery program established under section 5120.65 of the Revised Code. 57627  
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**Sec. 5107.40.** As used in sections 5107.40 to 5107.69 of the Revised Code: 57631  
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(A) "Alternative work activity" means an activity designed to promote self sufficiency and personal responsibility established by a county department of job and family services under section 5107.64 of the Revised Code. 57633  
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(B) "Developmental activity" means an activity designed to promote self sufficiency and personal responsibility established by a county department of job and family services under section 5107.62 of the Revised Code. 57637  
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(C) "High school equivalence diploma" means a diploma attesting to achievement of the equivalent of a high school education as measured by scores obtained on the tests of general educational development published by the American council on education. "High school equivalence diploma" includes a certificate of high school equivalence issued prior to January 1, 1994, attesting to the achievement of the equivalent of a high school education as measured by scores obtained on tests of general educational development. 57641  
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(D) "Work activity" means the following: 57650

(1) Unsubsidized employment activities established under 57651

section 5107.60 of the Revised Code;	57652
(2) The subsidized employment program established under section 5107.52 of the Revised Code;	57653 57654
(3) The work experience program established under section 5107.54 of the Revised Code;	57655 57656
(4) On-the-job training activities established under section 5107.60 of the Revised Code;	57657 57658
(5) The job search and readiness program established under section 5107.50 of the Revised Code;	57659 57660
(6) Community service activities established under section 5107.60 of the Revised Code;	57661 57662
(7) Vocational educational training activities established under section 5107.60 of the Revised Code;	57663 57664
(8) Jobs skills training activities established under section 5107.60 of the Revised Code that are directly related to employment;	57665 57666 57667
(9) Education activities established under section 5107.60 of the Revised Code that are directly related to employment for participants of Ohio works first who have not earned a high school diploma or high school equivalence diploma;	57668 57669 57670 57671
(10) Education activities established under section 5107.60 of the Revised Code for participants of Ohio works first who have not completed secondary school or received a high school equivalence diploma under which the participants attend a secondary school or a course of study leading to a high school equivalence diploma;	57672 57673 57674 57675 57676 57677
(11) Child-care service activities, including training, established under section 5107.60 of the Revised Code to aid another participant of Ohio works first assigned to a community service activity or other work activity;	57678 57679 57680 57681



(12) The education program established under section 5107.58 57682  
of the Revised Code that are operated pursuant to a federal waiver 57683  
granted by the United States secretary of health and human 57684  
services pursuant to a request made under former section 5101.09 57685  
of the Revised Code; 57686

(13) ~~Except as limited~~ To the extent provided by division (C) 57687  
of section 5107.30 of the Revised Code, the LEAP program 57688  
established under that section. 57689

**Sec. 5107.60.** In accordance with Title IV-A, federal 57690  
regulations, state law, the Title IV-A state plan prepared under 57691  
section 5101.80 of the Revised Code, and amendments to the plan, 57692  
county departments of job and family services shall establish and 57693  
administer the following work activities, in addition to the work 57694  
activities established under sections 5107.50, 5107.52, 5107.54, 57695  
and 5107.58 of the Revised Code, for minor heads of households and 57696  
adults participating in Ohio works first: 57697

(A) Unsubsidized employment activities, including activities 57698  
a county department determines are legitimate entrepreneurial 57699  
activities; 57700

(B) On-the-job training activities, including training to 57701  
become an employee of a child day-care center or type A family 57702  
day-care home, authorized provider of a certified type B family 57703  
day-care home, or in-home aide; 57704

(C) Community service activities including a program under 57705  
which a participant of Ohio works first who is the parent, 57706  
guardian, custodian, or specified relative responsible for the 57707  
care of a minor child enrolled in grade twelve or lower is 57708  
involved in the minor child's education on a regular basis; 57709

(D) Vocational educational training activities; 57710

(E) Jobs skills training activities that are directly related 57711

to employment;	57712
(F) Education activities that are directly related to	57713
employment for participants who have not earned a high school	57714
diploma or high school equivalence diploma;	57715
(G) Education activities for participants who have not	57716
completed secondary school or received a high school equivalence	57717
diploma under which the participants attend a secondary school or	57718
a course of study leading to a high school equivalence diploma,	57719
<u>including LEAP participation by a minor head of household;</u>	57720
(H) Child-care service activities aiding another participant	57721
assigned to a community service activity or other work activity. A	57722
county department may provide for a participant assigned to this	57723
work activity to receive training necessary to provide child-care	57724
services.	57725
<b>Sec. 5108.01.</b> As used in this chapter:	57726
(A) <del>"Assistance group" means a group of individuals treated</del>	57727
<del>as a unit for purposes of determining eligibility for the</del>	57728
<del>prevention, retention, and contingency program</del> <u>"County family</u>	57729
<u>services planning committee" means the county family services</u>	57730
<u>planning committee established under section 329.06 of the Revised</u>	57731
<u>Code or the board created by consolidation under division (C) of</u>	57732
<u>section 6301.06 of the Revised Code.</u>	57733
(B) "Prevention, retention, and contingency program" means	57734
the program established by this chapter and funded in part with	57735
federal funds provided under Title IV-A.	57736
(C) "Title IV-A" means Title IV-A of the "Social Security	57737
Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as amended.	57738
<b>Sec. 5108.03.</b> Under the prevention, retention, and	57739
contingency program, <del>a</del> <u>each</u> county department of job and family	57740

services shall ~~provide~~ do both of the following in accordance with 57741  
the statement of policies the county department develops under 57742  
section 5108.04 of the Revised Code: 57743

(A) Provide benefits and services that individuals need to 57744  
overcome immediate barriers to achieving or maintaining self 57745  
sufficiency and personal responsibility; 57746

(B) Perform related administrative duties. ~~A county~~ 57747  
~~department shall provide the benefits and services in accordance~~ 57748  
~~with either the model design for the program that the department~~ 57749  
~~of job and family services develops under section 5108.05 of the~~ 57750  
~~Revised Code or the county department's own policies for the~~ 57751  
~~program developed under section 5108.06 of the Revised Code.~~ 57752

**Sec. ~~5108.06~~ 5108.04.** Each county department of job and 57753  
family services shall ~~either adopt the model design for a written~~ 57754  
statement of policies governing the prevention, retention, and 57755  
~~contingency program the department of job and family services~~ 57756  
~~develops under section 5108.05 of the Revised Code or develop its~~ 57757  
~~own policies for the program~~ county. ~~To develop its own policies,~~ 57758  
~~a county department shall adopt a written statement of the~~ 57759  
~~policies governing the program. The policies may be a modification~~ 57760  
~~of the model design, different from the model design, or a~~ 57761  
~~combination.~~ The statement of policies shall be adopted not later 57762  
than October 1, 2003, and shall be updated at least every two 57763  
years thereafter. A county department may amend its statement of 57764  
policies to modify, terminate, and establish new policies. The 57765  
county director of job and family services shall sign and date the 57766  
statement of policies and any amendment to it. Neither the 57767  
statement of policies nor any amendment to it may have an 57768  
effective date that is earlier than the date of the county 57769  
director's signature. 57770

A Each county department of job and family services shall 57771

~~inform~~ provide the department of job and family services of 57772  
~~whether it has adopted the model design or developed its own~~ 57773  
~~policies for the prevention, retention, and contingency program.~~ 57774  
~~If a county department develops its own policies, it shall provide~~ 57775  
~~the department a written copy of the statement of policies and any~~ 57776  
~~amendments it adopts to the statement~~ not later than ten calendar 57777  
days after the statement or amendment's effective date. 57778

~~Sec. 5108.07~~ 5108.05. ~~The model design for the prevention,~~ 57779  
~~retention, and contingency program that the department of job and~~ 57780  
~~family services develops under section 5108.05 of the Revised Code~~ 57781  
~~and policies for the program that a county department of job and~~ 57782  
~~family services may develop under section 5108.06 of the Revised~~ 57783  
~~Code shall establish~~ In adopting a statement of policies under 57784  
section 5108.04 of the Revised Code for the county's prevention, 57785  
retention, and contingency program, each county department of job 57786  
and family services shall do all of the following: 57787

~~(A) Establish~~ or specify eligibility requirements for 57788  
~~assistance groups that apply for the program under section 5108.10~~ 57789  
~~of the Revised Code, benefits~~ all of the following: 57790

~~(1) Benefits~~ and services to be provided under the program to 57791  
~~assistance groups, administrative~~ that are allowable uses of 57792  
federal Title IV-A funds under 42 U.S.C. 601 and 604(a), except 57793  
that they may not be "assistance" as defined in 45 C.F.R. 57794  
260.31(a) but rather benefits and services that 45 C.F.R. 57795  
260.31(b) excludes from the definition of assistance; 57796

~~(2) Restrictions on the amount, duration, and frequency of~~ 57797  
the benefits and services; 57798

~~(3) Eligibility requirements for the benefits and services;~~ 57799

~~(4) Fair and equitable procedures for both of the following:~~ 57800

~~(a) The certification of eligibility for the benefits and~~ 57801

<u>services that do not have a financial need eligibility</u>	57802
<u>requirement;</u>	57803
<u>(b) The determination and verification of eligibility for the</u>	57804
<u>benefits and services that have a financial need eligibility</u>	57805
<u>requirement.</u>	57806
<u>(5) Objective criteria for the delivery of the benefits and</u>	57807
<u>services;</u>	57808
<u>(6) Administrative requirements, and other;</u>	57809
<u>(7) Other matters the department, in the case of the model</u>	57810
<u>design, or a county department, in the case of county policies,</u>	57811
<u>determine <u>determines</u> are necessary.</u>	57812
<u>The model design and a county department's policies may</u>	57813
<u>establish eligibility requirements for, and specify benefits and</u>	57814
<u>services to be provided to, types of groups, such as students in</u>	57815
<u>the same class, that share a common need for the benefits and</u>	57816
<u>services. If the model design or a county department's policies</u>	57817
<u>include such a provision, the model design or county department's</u>	57818
<u>policies shall require that each individual who is to receive the</u>	57819
<u>benefits and services meet the eligibility requirements</u>	57820
<u>established for the type of group of which the individual is a</u>	57821
<u>member. The model design or county department's policies also</u>	57822
<u>shall require that the county department providing the benefits</u>	57823
<u>and services certify the group's eligibility, specify the duration</u>	57824
<u>that the group is to receive the benefits and services, and</u>	57825
<u>maintain the eligibility information for each member of the group</u>	57826
<u>receiving the benefits and services.</u>	57827
<u>The model design and a county department's policies may</u>	57828
<u>specify benefits and services that a county department may provide</u>	57829
<u>for the general public, including billboards that promote the</u>	57830
<u>prevention, and reduction in the incidence, of out of wedlock</u>	57831
<u>pregnancies or encourage the formation and maintenance of</u>	57832

~~two parent families.~~ 57833

~~The model design and a county department's policies must be~~ 57834  
~~consistent with (B) Provide for the statement of policies to be~~ 57835  
~~consistent with all of the following:~~ 57836

(1) The plan of cooperation the board of county commissioners 57837  
develops under section 307.983 of the Revised Code; 57838

(2) The review and analysis of the county family services 57839  
committee conducted in accordance with division (B)(2) of section 57840  
329.06 of the Revised Code; 57841

(3) Title IV-A, federal regulations, state law, the Title 57842  
IV-A state plan submitted to the United States secretary of health 57843  
and human services under section 5101.80 of the Revised Code, and 57844  
amendments to the plan. All benefits and services to be provided 57845  
under the model design or a county department's policies must be 57846  
allowable uses of federal Title IV A funds as specified in 42 57847  
U.S.C.A. 604(a), except that they may not be "assistance" as 57848  
defined in 45 C.F.R. 260.31(a). The benefits and services shall be 57849  
benefits and services that 45 C.F.R. 260.31(b) excludes from the 57850  
definition of assistance. 57851

(C) Either provide the public and local government entities 57852  
at least thirty days to submit comments on, or have the county 57853  
family services planning committee review, the statement of 57854  
policies, including the design of the county's prevention, 57855  
retention, and contingency program, before the county director 57856  
signs and dates the statement of policies. 57857

Sec. 5108.051. A county department of job and family services 57858  
is not required to follow division (C) of section 5108.05 of the 57859  
Revised Code when amending its statement of policies under section 57860  
5108.04 of the Revised Code. Division (C) of section 5108.05 of 57861  
the Revised Code applies only when a county department adopts its 57862

initial and updated statement of policies under section 5108.04 of 57863  
the Revised Code. 57864

Sec. 5108.06. In adopting a statement of policies under 57865  
section 5108.04 of the Revised Code for the county's prevention, 57866  
retention, and contingency program, a county department of job and 57867  
family services may specify both of the following: 57868

(A) Benefits and services to be provided under the program 57869  
that prevent and reduce the incidence of out-of-wedlock 57870  
pregnancies or encourage the formation and maintenance of 57871  
two-parent families as permitted by 45 C.F.R. 260.20(c) and (d); 57872

(B) How the county department will certify individuals' 57873  
eligibility for such benefits and services. 57874

Sec. 5108.07. (A) Each statement of policies adopted under 57875  
section 5108.04 of the Revised Code shall include the board of 57876  
county commissioners' certification that the county department of 57877  
job and family services complied with this chapter in adopting the 57878  
statement of policies. 57879

(B) The board of county commissioners shall revise its 57880  
certification under division (A) of this section if an amendment 57881  
to the statement of policies that the board considers to be 57882  
significant is adopted under section 5108.04 of the Revised Code. 57883

Sec. 5108.09. When a state hearing under division (B) of 57884  
section 5101.35 of the Revised Code or an administrative appeal 57885  
under division (C) of that section is held regarding the 57886  
prevention, retention, and contingency program, the hearing 57887  
officer, director of job and family services, or director's 57888  
designee shall base the decision in the hearing or appeal on the 57889  
following: 57890

(A) If the county department of job and family services 57891

~~involved in the hearing or appeal adopted the department of job and family services' model design for the program developed under section 5108.05 of the Revised Code, the model design:~~ 57892  
57893  
57894

~~(B) If the county department developed its own policies for the program, the county department's department of job and family services' written statement of policies adopted under section 5108.06 5108.04 of the Revised Code and any amendments the county department adopted to the statement if the county department provides a copy of the statement of policies and all amendments to the hearing officer, director, or director's designee at the hearing or appeal.~~ 57895  
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~~**Sec. 5108.10.** An assistance group seeking to participate in the prevention, retention, and contingency program shall apply to a county department of job and family services using Eligibility for a benefit or service under a county's prevention, retention, and contingency program shall be certified in accordance with the statement of policies adopted under section 5108.04 of the Revised Code if the benefit or service does not have a financial need eligibility requirement.~~ 57903  
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~~Eligibility for a benefit or service shall be determined in accordance with the statement of policies and based on an application containing information the county department of job and family services requires.~~ 57911  
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~~When if the benefit or service has a financial need eligibility requirement. When a county department receives an application for ~~participation in the prevention, retention, and contingency program~~ such benefits and services, it shall promptly make an investigation and record of the circumstances of the applicant in order to ascertain follow verification procedures established by the statement of policies to verify the facts surrounding the application and to obtain such other information~~ 57915  
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as may be required. On completion of the investigation 57923  
verification procedure, the county department shall determine 57924  
whether the applicant is eligible ~~to participate~~, for the benefits 57925  
or services ~~the applicant should receive~~, and the approximate date 57926  
when ~~participation is~~ the benefits or services are to begin. 57927

Sec. 5108.11. (A) To the extent permitted by section 307.982 57928  
of the Revised Code, a board of county commissioners may enter 57929  
into a written contract with a private or government entity for 57930  
the entity to do either or both of the following for the county's 57931  
prevention, retention, and contingency program: 57932

(1) Certify eligibility for benefits and services that do not 57933  
have a financial need eligibility requirement; 57934

(2) Accept applications and determine and verify eligibility 57935  
for benefits and services that have a financial need eligibility 57936  
requirement. 57937

(B) If a board of county commissioners enters into a contract 57938  
under division (A) of this section with a private or government 57939  
entity, the county department of job and family services shall do 57940  
all of the following: 57941

(1) Ensure that eligibility for benefits and services is 57942  
certified or determined and verified in accordance with the 57943  
statement of policies adopted under section 5108.04 of the Revised 57944  
Code; 57945

(2) Ensure that the private or government entity maintains 57946  
all records that are necessary for audits; 57947

(3) Monitor the private or government entity for compliance 57948  
with Title IV-A, this chapter of the Revised Code, and the 57949  
statement of policies; 57950

(4) Take actions that are necessary to recover any funds that 57951  
are not spent in accordance with Title IV-A or this chapter of the 57952

<u>Revised Code.</u>	57953
<u>Sec. 5108.12. Each county department of job and family services is responsible for funds expended or claimed under the county's prevention, retention, and contingency program that the department of job and family services, auditor of state, United States department of health and human services, or other government entity determines is expended or claimed in a manner that federal or state law or policy does not permit.</u>	57954 57955 57956 57957 57958 57959 57960
<u>Sec. 5111.016. (A) As used in this section, "healthcheck" has the same meaning as in section 3313.714 of the Revised Code.</u>	57961 57962
<u>(B) In accordance with federal law and regulations, the department of job and family services shall establish a combination of written and oral methods designed to provide information about healthcheck to all persons eligible for the program or their parents or guardians. The department shall ensure that its methods of providing information are effective.</u>	57963 57964 57965 57966 57967 57968
<u>Each county department of job and family services or other entity that distributes or accepts applications for medical assistance shall prominently display in a conspicuous place the following notice:</u>	57969 57970 57971 57972
<u>"Under state and federal law, if you are a Medicaid recipient, your child is entitled to a thorough medical examination provided through Healthcheck. Once this examination is completed, your child is entitled to receive, at no cost to you, any service determined to be medically necessary."</u>	57973 57974 57975 57976 57977
<u>(C) Before a healthcheck medical examination may be performed on a child, the department of job and family services shall do both of the following:</u>	57978 57979 57980
<u>(1) Inform the child's parent, through both oral and written communication, that the examination may include the following</u>	57981 57982

<u>components:</u>	57983
<u>(a) A mental evaluation;</u>	57984
<u>(b) A physical assessment;</u>	57985
<u>(c) An unclothed physical examination of the child's</u> <u>reproductive system, including a genital examination.</u>	57986 57987
<u>(2) Obtain the parent's consent to perform the examination.</u>	57988
<u>The department shall not require a parent to consent to a</u> <u>healthcheck medical examination for the parent's child as a</u> <u>condition of receipt of other medicaid services.</u>	57989 57990 57991
<b>Sec. 5111.0112.</b> The director of job and family services shall examine instituting a copayment program under medicaid. As part of the examination, the director shall determine which groups of medicaid recipients may be subjected to a copayment requirement under federal statutes and regulations <del>and which of those groups</del> <del>are appropriate for a copayment program designed to reduce</del> <del>inappropriate and excessive use of medical goods and services.</del> If, on completion of the examination, the director determines that it is feasible to institute such a copayment program, the director may seek approval from the United States secretary of health and human services to institute the copayment program. If necessary, the director may seek approval by applying for a waiver of federal statutes and regulations. If such approval is obtained, the director shall adopt rules in accordance with Chapter 119. of the Revised Code governing the copayment program.	57992 57993 57994 57995 57996 57997 57998 57999 58000 58001 58002 58003 58004 58005 58006
<u><b>Sec. 5111.0113.</b> Children who are in the temporary or</u> <u>permanent custody of a certified public or private nonprofit</u> <u>agency or institution or in adoptions subsidized under division</u> <u>(B) of section 5153.163 of the Revised Code are eligible for</u> <u>medical assistance through the medicaid program established under</u> <u>section 5111.01 of the Revised Code.</u>	58007 58008 58009 58010 58011 58012

Sec. 5111.02. (A) Under the medical assistance program: 58013

(1) Except as otherwise permitted by federal statute or 58014  
regulation and at the department's discretion, reimbursement by 58015  
the department of job and family services to a medical provider 58016  
for any medical service rendered under the program shall not 58017  
exceed the authorized reimbursement level for the same service 58018  
under the medicare program established under Title XVIII of the 58019  
"Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as 58020  
amended. 58021

(2) Reimbursement for freestanding medical laboratory charges 58022  
shall not exceed the customary and usual fee for laboratory 58023  
profiles. 58024

(3) The department may deduct from payments for services 58025  
rendered by a medicaid provider under the medical assistance 58026  
program any amounts the provider owes the state as the result of 58027  
incorrect medical assistance payments the department has made to 58028  
the provider. 58029

(4) The department may conduct final fiscal audits in 58030  
accordance with the applicable requirements set forth in federal 58031  
laws and regulations and determine any amounts the provider may 58032  
owe the state. When conducting final fiscal audits, the department 58033  
shall consider generally accepted auditing standards, which 58034  
include the use of statistical sampling. 58035

(5) The number of days of inpatient hospital care for which 58036  
reimbursement is made on behalf of a recipient of medical 58037  
assistance to a hospital that is not paid under a 58038  
diagnostic-related-group prospective payment system shall not 58039  
exceed thirty days during a period beginning on the day of the 58040  
recipient's admission to the hospital and ending sixty days after 58041  
the termination of that hospital stay, except that the department 58042

may make exceptions to this limitation. The limitation does not 58043  
apply to children participating in the program for medically 58044  
handicapped children established under section 3701.023 of the 58045  
Revised Code. 58046

(B) The director of job and family services may adopt, amend, 58047  
or rescind rules under Chapter 119. of the Revised Code 58048  
establishing the amount, duration, and scope of medical services 58049  
to be included in the medical assistance program. Such rules shall 58050  
establish the conditions under which services are covered and 58051  
reimbursed, the method of reimbursement applicable to each covered 58052  
service, and the amount of reimbursement or, in lieu of such 58053  
amounts, methods by which such amounts are to be determined for 58054  
each covered service. Any rules that pertain to nursing facilities 58055  
or intermediate care facilities for the mentally retarded shall be 58056  
consistent with sections 5111.20 to 5111.33 of the Revised Code. 58057

~~(C) No health insuring corporation that has a contract to 58058  
provide health care services to recipients of medical assistance 58059  
shall restrict the availability to its enrollees of any 58060  
prescription drugs included in the Ohio medicaid drug formulary as 58061  
established under rules adopted by the director. 58062~~

~~(D)~~ The division of any reimbursement between a collaborating 58063  
physician or podiatrist and a clinical nurse specialist, certified 58064  
nurse-midwife, or certified nurse practitioner for services 58065  
performed by the nurse shall be determined and agreed on by the 58066  
nurse and collaborating physician or podiatrist. In no case shall 58067  
reimbursement exceed the payment that the physician or podiatrist 58068  
would have received had the physician or podiatrist provided the 58069  
entire service. 58070

**Sec. 5111.021.** Under the medical assistance program, any 58071  
amount determined to be owed the state by a final fiscal audit 58072  
conducted pursuant to division (A)(4) of section 5111.02 of the 58073

Revised Code, upon the issuance of an adjudication order pursuant 58074  
to Chapter 119. of the Revised Code that contains a finding that 58075  
there is a preponderance of the evidence that the provider will 58076  
liquidate assets or file bankruptcy in order to prevent payment of 58077  
the amount determined to be owed the state, becomes a lien upon 58078  
the real and personal property of the provider. Upon failure of 58079  
the provider to pay the amount to the state, the director of job 58080  
and family services shall file notice of the lien, for which there 58081  
shall be no charge, in the office of the county recorder of the 58082  
county in which it is ascertained that the provider owns real or 58083  
personal property. The director shall notify the provider by mail 58084  
of the lien, but absence of proof that the notice was sent does 58085  
not affect the validity of the lien. The lien is not valid as 58086  
against the claim of any mortgagee, pledgee, purchaser, judgment 58087  
creditor, or other lienholder of record at the time the notice is 58088  
filed. 58089

If the provider acquires real or personal property after 58090  
notice of the lien is filed, the lien shall not be valid as 58091  
against the claim of any mortgagee, pledgee, subsequent bona fide 58092  
purchaser for value, judgment creditor, or other lienholder of 58093  
record to such after-acquired property unless the notice of lien 58094  
is refiled after the property is acquired by the provider and 58095  
before the competing lien attaches to the after-acquired property 58096  
or before the conveyance to the subsequent bona fide purchaser for 58097  
value. 58098

When the amount has been paid, the provider may record with 58099  
the recorder notice of the payment. For recording such notice of 58100  
payment, the recorder shall charge and receive from the provider a 58101  
base fee of one dollar for services and a housing trust fund fee 58102  
of one dollar pursuant to section 317.36 of the Revised Code. 58103

In the event of a distribution of a provider's assets 58104  
pursuant to an order of any court under the law of this state 58105

including any receivership, assignment for benefit of creditors, 58106  
adjudicated insolvency, or similar proceedings, amounts then or 58107  
thereafter due the state under this chapter have the same priority 58108  
as provided by law for the payment of taxes due the state and 58109  
shall be paid out of the receivership trust fund or other such 58110  
trust fund in the same manner as provided for claims for unpaid 58111  
taxes due the state. 58112

If the attorney general finds after investigation that any 58113  
amount due the state under this chapter is uncollectable, in whole 58114  
or in part, the attorney general shall recommend to the director 58115  
the cancellation of all or part of the claim. The director may 58116  
thereupon effect the cancellation. 58117

**Sec. 5111.022.** (A) As used in this section: 58118

(1) "Community mental health facility" means a community 58119  
mental health facility that has a quality assurance program 58120  
accredited by the joint commission on accreditation of healthcare 58121  
organizations or is certified by the department of mental health 58122  
or department of job and family services. 58123

(2) "Mental health professional" means a person qualified to 58124  
work with mentally ill persons under the standards established by 58125  
the director of mental health pursuant to section 5119.611 of the 58126  
Revised Code. 58127

(B) The state ~~medicaid~~ plan for providing medical assistance 58128  
under Title XIX of the "Social Security Act," 49 Stat. 620, 42 58129  
U.S.C.A. 301, as amended, shall include provision of the following 58130  
mental health services when provided by community mental health 58131  
facilities described in division (B) of this section: 58132

(1) Outpatient mental health services, including, but not 58133  
limited to, preventive, diagnostic, therapeutic, rehabilitative, 58134  
and palliative interventions rendered to individuals in an 58135

individual or group setting by a mental health professional in 58136  
accordance with a plan of treatment appropriately established, 58137  
monitored, and reviewed; 58138

(2) Partial-hospitalization mental health services of three 58139  
to fourteen hours per service day, rendered by persons directly 58140  
supervised by a mental health professional; 58141

(3) Unscheduled, emergency mental health services of a kind 58142  
ordinarily provided to persons in crisis when rendered by persons 58143  
supervised by a mental health professional; 58144

(4) Subject to receipt of federal approval, assertive 58145  
community treatment and intensive home-based mental health 58146  
services. 58147

~~(B) Services shall be included in the state plan only when 58148~~  
~~provided by community mental health facilities that have quality 58149~~  
~~assurance programs accredited by the joint commission on 58150~~  
~~accreditation of healthcare organizations or certified by the 58151~~  
~~department of mental health or department of job and family 58152~~  
~~services.~~ 58153

(C) The comprehensive annual plan shall certify the 58154  
availability of sufficient unencumbered community mental health 58155  
state subsidy and local funds to match Title XIX federal medicaid 58156  
reimbursement funds earned by the community mental health 58157  
facilities. ~~Reimbursement for eligible services shall be based on 58158~~  
~~the prospective cost of providing the services as developed in 58159~~  
~~standards adopted as part of the comprehensive annual plan.~~ 58160

~~(D) As used in this section, "mental health professional" 58161~~  
~~means a person qualified to work with mentally ill persons under 58162~~  
~~the standards established by the director of mental health 58163~~  
~~pursuant to section 5119.611 of the Revised Code.~~ 58164

~~(E) With respect to services established by division (A) of 58165~~  
~~this section, the The department of job and family services shall 58166~~



enter into a separate contract with the department of mental 58167  
health under section 5111.91 of the Revised Code with regard to 58168  
the component of the medicaid program provided for by this 58169  
section. ~~The terms of the contract between the department of job~~ 58170  
~~and family services and the department of mental health shall~~ 58171  
~~specify both of the following:~~ 58172

~~(1) That the department of mental health and boards of~~ 58173  
~~alcohol, drug addiction, and mental health services shall provide~~ 58174  
~~state and local matching funds for Title XIX of the "Social~~ 58175  
~~Security Act," for reimbursement of services established by~~ 58176  
~~division (A) of this section;~~ 58177

~~(2) How the community mental health facilities described in~~ 58178  
~~division (B) of this section will be paid for providing the~~ 58179  
~~services established by division (A) of this section.~~ 58180

(E) Not later than May 1, 2004, the department of job and 58181  
family services shall request federal approval to provide 58182  
assertive community treatment and intensive home-based mental 58183  
health services under medicaid pursuant to this section. 58184

(F) On receipt of federal approval sought under division (E) 58185  
of this section, the director of job and family services shall 58186  
adopt rules in accordance with Chapter 119. of the Revised Code 58187  
establishing statewide access and acuity standards for partial 58188  
hospitalization mental health services and assertive community 58189  
treatment and intensive home-based mental health services provided 58190  
under medicaid pursuant to this section. The director shall 58191  
consult with the department of mental health in adopting the 58192  
rules. 58193

**Sec. 5111.025.** (A) In rules adopted under section 5111.02 of 58194  
the Revised Code, the director of job and family services shall 58195  
modify the manner or establish a new manner in which the following 58196  
are paid under medicaid: 58197

(1) Community mental health facilities for providing mental health services included in the state medicaid plan pursuant to section 5111.022 of the Revised Code; 58198  
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(2) Providers of alcohol and drug addiction services for providing alcohol and drug addiction services included in the medicaid program pursuant to rules adopted under section 5111.02 of the Revised Code. 58201  
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(B) In modifying the manner, or establishing a new manner, for medicaid to pay for the services specified in division (A) of this section, the director shall include a provision for obtaining federal financial participation for the costs that each board of alcohol, drug addiction, and mental health services incurs in its administration of those services. Except as provided in section 5111.92 of the Revised Code, the department of job and family services shall pay the federal financial participation obtained for such administrative costs to the board that incurs the administrative costs. 58205  
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(C) The director's authority to modify the manner, or to establish a new manner, for medicaid to pay for the services specified in division (A) of this section is not limited by any rules adopted under section 5111.02 or 5119.61 of the Revised Code that are in effect on the effective date of this section and govern the way medicaid pays for those services. This is the case regardless of what state agency adopted the rules. 58215  
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**Sec. 5111.03.** (A) No provider of services or goods contracting with the department of job and family services pursuant to the medicaid program shall, by deception, obtain or attempt to obtain payments under this chapter to which the provider is not entitled pursuant to the provider agreement, or the rules of the federal government or the department of job and family services relating to the program. No provider shall 58222  
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willfully receive payments to which the provider is not entitled, 58229  
or willfully receive payments in a greater amount than that to 58230  
which the provider is entitled; nor shall any provider falsify any 58231  
report or document required by state or federal law, rule, or 58232  
provider agreement relating to medicaid payments. As used in this 58233  
section, a provider engages in "deception" when the provider, 58234  
acting with actual knowledge of the representation or information 58235  
involved, acting in deliberate ignorance of the truth or falsity 58236  
of the representation or information involved, or acting in 58237  
reckless disregard of the truth or falsity of the representation 58238  
or information involved, deceives another or causes another to be 58239  
deceived by any false or misleading representation, by withholding 58240  
information, by preventing another from acquiring information, or 58241  
by any other conduct, act, or omission that creates, confirms, or 58242  
perpetuates a false impression in another, including a false 58243  
impression as to law, value, state of mind, or other objective or 58244  
subjective fact. No proof of specific intent to defraud is 58245  
required to show, for purposes of this section, that a provider 58246  
has engaged in deception. 58247

(B) Any provider who violates division (A) of this section 58248  
shall be liable, in addition to any other penalties provided by 58249  
law, for all of the following civil penalties: 58250

(1) Payment of interest on the amount of the excess payments 58251  
at the maximum interest rate allowable for real estate mortgages 58252  
under section 1343.01 of the Revised Code on the date the payment 58253  
was made to the provider for the period from the date upon which 58254  
payment was made, to the date upon which repayment is made to the 58255  
state; 58256

(2) Payment of an amount equal to three times the amount of 58257  
any excess payments; 58258

(3) Payment of a sum of not less than five thousand dollars 58259  
and not more than ten thousand dollars for each deceptive claim or 58260

falsification; 58261

(4) All reasonable expenses which the court determines have 58262  
been necessarily incurred by the state in the enforcement of this 58263  
section. 58264

(C) ~~In~~ As used in this division, "intermediate care facility 58265  
for the mentally retarded" and "nursing facility" have the same 58266  
meanings given in section 5111.20 of the Revised Code. 58267

In addition to the civil penalties provided in division (B) 58268  
of this section, the director of job and family services, upon the 58269  
conviction of, or the entry of a judgment in either a criminal or 58270  
civil action against, a medicaid provider or its owner, officer, 58271  
authorized agent, associate, manager, or employee in an action 58272  
brought pursuant to section 109.85 of the Revised Code, shall 58273  
terminate the provider agreement between the department and the 58274  
provider and stop reimbursement to the provider for services 58275  
rendered for a period of up to five years from the date of 58276  
conviction or entry of judgment. As used in this chapter, "owner" 58277  
means any person having at least five per cent ownership in the 58278  
medicaid provider. No such provider, owner, officer, authorized 58279  
agent, associate, manager, or employee shall own or provide 58280  
services to any other medicaid provider or risk contractor or 58281  
arrange for, render, or order services for medicaid recipients 58282  
during the period of termination as provided in division (C) of 58283  
this section, nor, during the period of termination as provided in 58284  
division (C) of this section, shall such provider, owner, officer, 58285  
authorized agent, associate, manager, or employee receive 58286  
reimbursement in the form of direct payments from the department 58287  
or indirect payments of medicaid funds in the form of salary, 58288  
shared fees, contracts, kickbacks, or rebates from or through any 58289  
participating provider or risk contractor. The provider agreement 58290  
shall not be terminated or reimbursement terminated if the 58291  
provider or owner can demonstrate that the provider or owner did 58292

not directly or indirectly sanction the action of its authorized 58293  
agent, associate, manager, or employee that resulted in the 58294  
conviction or entry of a judgment in a criminal or civil action 58295  
brought pursuant to section 109.85 of the Revised Code. Nothing in 58296  
this division prohibits any owner, officer, authorized agent, 58297  
associate, manager, or employee of a medicaid provider from 58298  
entering into a medicaid provider agreement if the person can 58299  
demonstrate that the person had no knowledge of an action of the 58300  
medicaid provider the person was formerly associated with that 58301  
resulted in the conviction or entry of a judgment in a criminal or 58302  
civil action brought pursuant to section 109.85 of the Revised 58303  
Code. 58304

~~Providers subject to sections 5111.20 to 5111.32 of the~~ 58305  
~~Revised Code Nursing facility or intermediate care facility for~~ 58306  
~~the mentally retarded providers~~ whose agreements are terminated 58307  
pursuant to this section may continue to receive reimbursement for 58308  
up to thirty days after the effective date of the termination if 58309  
the provider makes reasonable efforts to transfer recipients to 58310  
another facility or to alternate care and if federal funds are 58311  
provided for such reimbursement. 58312

(D) Any provider of services or goods contracting with the 58313  
department of job and family services pursuant to Title XIX of the 58314  
"Social Security Act," who, without intent, obtains payments under 58315  
this chapter in excess of the amount to which the provider is 58316  
entitled, thereby becomes liable for payment of interest on the 58317  
amount of the excess payments at the maximum real estate mortgage 58318  
rate on the date the payment was made to the provider for the 58319  
period from the date upon which payment was made to the date upon 58320  
which repayment is made to the state. 58321

(E) The attorney general on behalf of the state may commence 58322  
proceedings to enforce this section in any court of competent 58323  
jurisdiction; and the attorney general may settle or compromise 58324

any case brought under this section with the approval of the 58325  
department of job and family services. Notwithstanding any other 58326  
provision of law providing a shorter period of limitations, the 58327  
attorney general may commence a proceeding to enforce this section 58328  
at any time within six years after the conduct in violation of 58329  
this section terminates. 58330

(F) The authority, under state and federal law, of the 58331  
department of job and family services or a county department of 58332  
job and family services to recover excess payments made to a 58333  
provider is not limited by the availability of remedies under 58334  
sections 5111.11 and 5111.12 of the Revised Code for recovering 58335  
benefits paid on behalf of recipients of medical assistance. 58336

The penalties under this chapter apply to any overpayment, 58337  
billing, or falsification occurring on and after April 24, 1978. 58338  
All moneys collected by the state pursuant to this section shall 58339  
be deposited in the state treasury to the credit of the general 58340  
revenue fund. 58341

**Sec. 5111.06.** (A)(1) As used in this section: 58342

(a) "Provider" means any person, institution, or entity that 58343  
furnishes medicaid services under a provider agreement with the 58344  
department of job and family services pursuant to Title XIX of the 58345  
"Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as 58346  
amended. 58347

(b) "Party" has the same meaning as in division (G) of 58348  
section 119.01 of the Revised Code. 58349

(c) "Adjudication" has the same meaning as in division (D) of 58350  
section 119.01 of the Revised Code. 58351

(2) This section does not apply to any action taken by the 58352  
department of job and family services under sections 5111.35 to 58353  
5111.62 of the Revised Code. 58354

(B) Except as provided in division (D) of this section, the department shall do either of the following by issuing an order pursuant to an adjudication conducted in accordance with Chapter 119. of the Revised Code:

(1) Enter into or refuse to enter into a provider agreement with a provider, or suspend, terminate, renew, or refuse to renew an existing provider agreement with a provider;

(2) Take any action based upon a final fiscal audit of a provider.

(C) Any party who is adversely affected by the issuance of an adjudication order under division (B) of this section may appeal to the court of common pleas of Franklin county in accordance with section 119.12 of the Revised Code.

(D) The department is not required to comply with division (B)(1) of this section whenever any of the following occur:

(1) The terms of a provider agreement require the provider to have a license, permit, or certificate issued by an official, board, commission, department, division, bureau, or other agency of state government other than the department of job and family services, and the license, permit, or certificate has been denied or revoked.

(2) The provider agreement is denied, terminated, or not renewed pursuant to division (C) or (E) of section 5111.03 of the Revised Code;

(3) The provider agreement is denied, terminated, or not renewed due to the provider's termination, suspension, or exclusion from the medicare program established under Title XVIII of the "Social Security Act," and the termination, suspension, or exclusion is binding on the provider's participation in the medicaid program;

(4) The provider agreement is denied, terminated, or not renewed due to the provider's pleading guilty to or being convicted of a criminal activity materially related to either the medicare or medicaid program;

(5) The provider agreement is denied, terminated, or suspended as a result of action by the United States department of health and human services and that action is binding on the provider's participation in the medicaid program.

(E) The department may withhold payments for services rendered by a medicaid provider under the medical assistance program during the pendency of proceedings initiated under division (B)(1) of this section. If the proceedings are initiated under division (B)(2) of this section, the department may withhold payments only to the extent that they equal amounts determined in a final fiscal audit as being due the state. This division does not apply if the department fails to comply with section 119.07 of the Revised Code, requests a continuance of the hearing, or does not issue a decision within thirty days after the hearing is completed. This division does not apply to nursing facilities and intermediate care facilities for the mentally retarded ~~subject to sections as defined in section 5111.20 to 5111.32~~ of the Revised Code.

**Sec. ~~5111.08~~ 5111.071.** Commencing in December, 1986, and every second December thereafter, the director of job and family services shall establish a dispensing fee, effective the following January, for licensed pharmacists who are providers under this chapter. The dispensing fee shall take into consideration the results of the survey conducted under section 5111.07 of the Revised Code.

**Sec. ~~5111.16~~ 5111.08.** In accordance with subsection (g) of



section 1927 of the "Social Security Act," 49 Stat. 320 (1935), 42 58415  
U.S.C.A. 1396r-8(g), as amended, the department of job and family 58416  
services shall establish an outpatient drug use review program to 58417  
assure that prescriptions obtained by recipients of medical 58418  
assistance under this chapter are appropriate, medically 58419  
necessary, and unlikely to cause adverse medical results. 58420

**Sec. 5111.082.** The director of job and family services, in 58421  
rules adopted under section 5111.02 of the Revised Code, may 58422  
establish and implement a supplemental drug rebate program under 58423  
which drug manufacturers may be required to provide the department 58424  
of job and family services a supplemental rebate as a condition of 58425  
having the drug manufacturers' drug products covered by the 58426  
medicaid program without prior approval. If necessary, the 58427  
director may apply to the United States secretary of health and 58428  
human services for a waiver of federal statutes and regulations to 58429  
establish the supplemental drug rebate program. 58430

If the director establishes a supplemental drug rebate 58431  
program, the director shall consult with drug manufacturers 58432  
regarding the establishment and implementation of the program. 58433

If the director establishes a supplemental drug rebate 58434  
program, the director shall exempt from the program and from prior 58435  
authorization or any other restriction all of a drug 58436  
manufacturer's drug products that have been approved by the United 58437  
States food and drug administration and for which there is no 58438  
generic equivalent for the treatment of either of the following: 58439

(A) Mental illness, as defined in section 5122.01 of the 58440  
Revised Code, including schizophrenia, major depressive disorder, 58441  
and bipolar disorder; 58442

(B) HIV or AIDS, both as defined in section 3701.24 of the 58443  
Revised Code. 58444

Sec. 5111.083. (A) Each time before the director of job and family services contracts with a person to administer the medicaid program's preferred drug list established under rules adopted under section 5111.02 of the Revised Code or supplemental drug rebate program established under section 5111.082 of the Revised Code, an advisory council consisting of the following members shall be appointed to review the proposals submitted by persons seeking the contract and to select the person who is to be awarded the contract:

(1) The director of job and family services;

(2) One member of the house of representatives who is a member of the majority party and one member of the house of representatives who is a member of the minority party, appointed by the speaker of the house of representatives;

(3) One member of the senate who is a member of the majority party and one member of the senate who is a member of the minority party, appointed by the president of the senate;

(4) One representative of patient advocates, appointed by the speaker of the house of representatives;

(5) One representative of patient advocates, appointed by the president of the senate;

(6) One representative of the Ohio state medical association, appointed by that association's executive director;

(7) One representative of large businesses, appointed by the president of the Ohio chamber of commerce;

(8) One representative of small businesses, appointed by the state director of the Ohio chapter of the national federation of independent businesses;

(9) One representative of local government, appointed by the

executive director of the county commissioners' association of Ohio. 58474  
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The advisory council shall elect a chairperson from among its members. 58476  
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(B) All of the following apply to an advisory council appointed under this section: 58478  
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(1) It is subject to the open meetings law under section 121.22 of the Revised Code. 58480  
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(2) Its members may vote to select the person to be awarded the contract to administer the medicaid program's preferred drug list or supplemental drug rebate program only if a quorum of the members is present at the meeting at which the vote is taken. 58482  
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(3) Its members shall not be reimbursed for their expenses incurred in their work on the advisory council. 58486  
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(4) It may seek grants, donations, or other funds to pay for its activities. 58488  
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(5) It shall cease to exist when it selects the person to be awarded the contract that the advisory council was appointed to select. 58490  
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(C) The department of job and family services shall provide to an advisory council appointed under this section copies of proposals submitted by each person seeking the contract to administer the medicaid program's preferred drug list or supplemental drug rebate program for which the advisory council was appointed. The department shall redact from each copy of each proposal it provides to an advisory council under this section any proprietary information included in the proposal. The person with whom the department contracts for that purpose shall be the person the advisory council selects. 58493  
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**Sec. 5111.111.** As used in this section, "home and 58503

community-based services" means services provided pursuant to a 58504  
waiver under section 1915 of the "Social Security Act," 49 Stat. 58505  
620 (1935), 42 U.S.C.A. 1396n, as amended. 58506

The department of job and family services may place a lien 58507  
against the property of a medical assistance recipient or 58508  
recipient's spouse, other than a recipient or spouse of a 58509  
recipient of home and community-based services, that the 58510  
department may recover as part of the program instituted under 58511  
section 5111.11 of the Revised Code. When medical assistance is 58512  
paid on behalf of any person in circumstances under which federal 58513  
law and regulations and this section permit the imposition of a 58514  
lien, the director of job and family services or a person 58515  
designated by the director may sign a certificate to the effect. 58516  
The county department of job and family services shall file for 58517  
recording and indexing the certificate, or a certified copy, in 58518  
the real estate mortgage records in the office of the county 58519  
recorder in every county in which real property of the recipient 58520  
or spouse is situated. From the time of filing the certificate in 58521  
the office of the county recorder, the lien attaches to all real 58522  
property of the recipient or spouse described therein for all 58523  
amounts of aid which are paid or which thereafter are paid, and 58524  
shall remain a lien until satisfied. 58525

Upon filing the certificate in the office of the recorder, 58526  
all persons are charged with notice of the lien and the rights of 58527  
the department of job and family services thereunder. 58528

The county recorder shall keep a record of every certificate 58529  
filed showing its date, the time of filing, the name and residence 58530  
of the recipient or spouse, and any release, waivers, or 58531  
satisfaction of the lien. 58532

The priority of the lien shall be established in accordance 58533  
with state and federal law. 58534

The department may waive the priority of its lien to provide 58535  
for the costs of the last illness as determined by the department, 58536  
administration, attorney fees, administrator fees, a sum for the 58537  
payment of the costs of burial, which shall be computed by 58538  
deducting from five hundred dollars whatever amount is available 58539  
for the same purpose from all other sources, and a similar sum for 58540  
the spouse of the decedent. 58541

Sec. 5111.151. (A) This section applies to eligibility 58542  
determinations for all cases involving medical assistance provided 58543  
pursuant to this chapter, qualified medicare beneficiaries, 58544  
specified low-income medicare beneficiaries, qualifying 58545  
individuals-1, qualifying individuals-2, and medical assistance 58546  
for covered families and children. 58547

(B) As used in this section: 58548

(1) "Trust" means any arrangement in which a grantor 58549  
transfers real or personal property to a trust with the intention 58550  
that it be held, managed, or administered by at least one trustee 58551  
for the benefit of the grantor or beneficiaries. "Trust" includes 58552  
any legal instrument or device similar to a trust. 58553

(2) "Legal instrument or device similar to a trust" includes, 58554  
but is not limited to, escrow accounts, investment accounts, 58555  
partnerships, contracts, and other similar arrangements that are 58556  
not called trusts under state law but are similar to a trust and 58557  
to which all of the following apply: 58558

(a) The property in the trust is held, managed, retained, or 58559  
administered by a trustee. 58560

(b) The trustee has an equitable, legal, or fiduciary duty to 58561  
hold, manage, retain, or administer the property for the benefit 58562  
of the beneficiary. 58563

(c) The trustee holds identifiable property for the 58564

<u>beneficiary.</u>	58565
<u>(3) "Grantor" is a person who creates a trust, including all</u>	58566
<u>of the following:</u>	58567
<u>(a) An individual;</u>	58568
<u>(b) An individual's spouse;</u>	58569
<u>(c) A person, including a court or administrative body, with</u>	58570
<u>legal authority to act in place of or on behalf of an individual</u>	58571
<u>or an individual's spouse;</u>	58572
<u>(d) A person, including a court or administrative body, that</u>	58573
<u>acts at the direction or on request of an individual or the</u>	58574
<u>individual's spouse.</u>	58575
<u>(4) "Beneficiary" is a person or persons, including a</u>	58576
<u>grantor, who benefits in some way from a trust.</u>	58577
<u>(5) "Trustee" is a person who manages a trust's principal and</u>	58578
<u>income for the benefit of the beneficiaries.</u>	58579
<u>(6) "Person" has the same meaning as in section 1.59 of the</u>	58580
<u>Revised Code and includes an individual, corporation, business</u>	58581
<u>trust, estate, trust, partnership, and association.</u>	58582
<u>(7) "Applicant" is an individual who applies for medical</u>	58583
<u>assistance benefits or the individual's spouse.</u>	58584
<u>(8) "Recipient" is an individual who receives medical</u>	58585
<u>assistance benefits or the individual's spouse.</u>	58586
<u>(9) "Revocable trust" is a trust that can be revoked by the</u>	58587
<u>grantor or the beneficiary, including all of the following, even</u>	58588
<u>if the terms of the trust state that it is irrevocable:</u>	58589
<u>(a) A trust that provides that the trust can be terminated</u>	58590
<u>only by a court;</u>	58591
<u>(b) A trust that terminates on the happening of an event, but</u>	58592
<u>only if the event occurs at the direction or control of the</u>	58593

<u>grantor, beneficiary, or trustee.</u>	58594
<u>(10) "Irrevocable trust" is a trust that cannot be revoked by the grantor or terminated by a court and that terminates only on the occurrence of an event outside of the control or direction of the beneficiary or grantor.</u>	58595 58596 58597 58598
<u>(11) "Payment" is any disbursement from the principal or income of the trust, including actual cash, noncash or property disbursements, or the right to use and occupy real property.</u>	58599 58600 58601
<u>(12) "Payments to or for the benefit of the applicant or recipient" is a payment to any person resulting in a direct or indirect benefit to the applicant or recipient.</u>	58602 58603 58604
<u>(13) "Testamentary trust" is a trust that is established by a will and does not take effect until after the death of the person who created the trust.</u>	58605 58606 58607
<u>(C) If an applicant or recipient is a beneficiary of a trust, the county department of job and family services shall determine what type of trust it is and shall treat the trust in accordance with the appropriate provisions of this section and rules adopted by the department of job and family services governing trusts. The county department of job and family services may determine that the trust or portion of the trust is one of the following:</u>	58608 58609 58610 58611 58612 58613 58614
<u>(1) A countable resource;</u>	58615
<u>(2) Countable income;</u>	58616
<u>(3) A countable resource and countable income;</u>	58617
<u>(4) Not a countable resource or countable income.</u>	58618
<u>(D)(1) A trust or legal instrument or device similar to a trust shall be considered a medicaid qualifying trust if all of the following apply:</u>	58619 58620 58621
<u>(a) The trust was established on or prior to August 10, 1993.</u>	58622

<u>(b) The trust was not established by a will.</u>	58623
<u>(c) The trust was established by an applicant or recipient.</u>	58624
<u>(d) The applicant or recipient is or may become the beneficiary of all or part of the trust.</u>	58625 58626
<u>(e) Payment from the trust is determined by one or more trustees who are permitted to exercise any discretion with respect to the distribution to the applicant or recipient.</u>	58627 58628 58629
<u>(2) If a trust meets the requirement of division (D)(1) of this section, the amount of the trust that is considered by the county department of job and family services as an available resource to the applicant or recipient shall be the maximum amount of payments permitted under the terms of the trust to be distributed to the applicant or recipient, assuming the full exercise of discretion by the trustee or trustees. The maximum amount shall include only amounts that are permitted to be distributed but are not distributed from either the income or principal of the trust.</u>	58630 58631 58632 58633 58634 58635 58636 58637 58638 58639
<u>(3) Amounts that are actually distributed from a Medicaid qualifying trust to a beneficiary for any purpose shall be treated in accordance with rules adopted by the department of job and family services governing income.</u>	58640 58641 58642 58643
<u>(4) Availability of a medicaid qualifying trust shall be considered without regard to any of the following:</u>	58644 58645
<u>(a) Whether or not the trust is irrevocable or was established for purposes other than to enable a grantor to qualify for medicaid, medical assistance for covered families and children, or as a qualified medicare beneficiary, specified low-income medicare beneficiary, qualifying individual-1, or qualifying individual-2;</u>	58646 58647 58648 58649 58650 58651
<u>(b) Whether or not the trustee actually exercises discretion.</u>	58652



(5) If any real or personal property is transferred to a 58653  
medicaid qualifying trust that is not distributable to the 58654  
applicant or recipient, the transfer shall be considered an 58655  
improper transfer of resources and shall be subject to rules 58656  
adopted by the department of job and family services governing 58657  
improper transfers of resources. 58658

(6) The baseline date for the look-back period for transfers 58659  
of assets involving a medicaid qualifying trust shall be the date 58660  
on which the applicant or recipient is both institutionalized and 58661  
first applies for medical assistance. The following conditions 58662  
also apply to look-back periods for transfers of assets involving 58663  
medicaid qualifying trusts: 58664

(a) If a medicaid qualifying trust is a revocable trust and a 58665  
portion of the trust is distributed to someone other than the 58666  
applicant or recipient for the benefit of someone other than the 58667  
applicant or recipient, the distribution shall be considered an 58668  
improper transfer of resources. The look-back period shall be 58669  
sixty months from the baseline date. The transfer shall be 58670  
considered to have taken place on the date on which the payment to 58671  
someone other than the applicant or recipient was made. 58672

(b) If a medicaid qualifying trust is an irrevocable trust 58673  
and a portion of the trust is not distributable to the applicant 58674  
or recipient, the trust shall be treated as an improper transfer 58675  
of resources. The look-back period shall be sixty months from the 58676  
baseline date. The transfer is considered to have been made as of 58677  
the later of the date the trust was established or the date on 58678  
which payment to the applicant or recipient was foreclosed. The 58679  
value of the assets shall not be reduced by any payments from the 58680  
trust that may be made from these unavailable assets at a later 58681  
date. 58682

(c) If a medicaid qualifying trust is an irrevocable trust 58683

and a portion or all of the trust may be disbursed to or for the 58684  
benefit of the applicant or recipient, any payment that is made to 58685  
another person other than the applicant or recipient shall be 58686  
considered an improper transfer of resources. The look-back period 58687  
shall be thirty-six months from the baseline date. The transfer 58688  
shall be considered to have been made as of the date of payment to 58689  
the other person. 58690

(E)(1) A trust or legal instrument or device similar to a 58691  
trust shall be considered a self-settled trust if all of the 58692  
following apply: 58693

(a) The trust was established on or after August 11, 1993. 58694

(b) The trust was not established by a will. 58695

(c) The trust was established by an applicant or recipient, 58696  
spouse of an applicant or recipient, or a person, including a 58697  
court or administrative body, with legal authority to act in place 58698  
of or on behalf of an applicant, recipient, or spouse, or acting 58699  
at the direction or on request of an applicant, recipient, or 58700  
spouse. 58701

(2) A trust that meets the requirements of division (E)(1) of 58702  
this section and is a revocable trust shall be treated by the 58703  
county department of job and family services as follows: 58704

(a) The corpus of the trust shall be considered a resource 58705  
available to the applicant or recipient. 58706

(b) Payments from the trust to or for the benefit of the 58707  
applicant or recipient shall be considered unearned income of the 58708  
applicant or recipient. 58709

(c) Any other payments from the trust shall be considered an 58710  
improper transfer of resources and shall be subject to rules 58711  
adopted by the department of job and family services governing 58712  
improper transfers of resources. 58713

(3) A trust that meets the requirements of division (E)(1) of this section and is an irrevocable trust shall be treated by the county department of job and family services as follows: 58714  
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(a) If there are any circumstances under which payment from the trust could be made to or for the benefit of the applicant or recipient, including a payment that can be made only in the future, the portion from which payments could be made shall be considered a resource available to the applicant or recipient. The county department of job and family services shall not take into account when payments can be made. 58717  
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(b) Any payment that is actually made to or for the benefit of the applicant or recipient from either the corpus or income shall be considered unearned income. 58724  
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(c) If a payment is made to someone other than to the applicant or recipient and the payment is not for the benefit of the applicant or recipient, the payment shall be considered an improper transfer of resources and shall be subject to rules adopted by the department of job and family services governing improper transfers of resources. 58727  
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(d) The date of the transfer shall be the later of the date of establishment of the trust or the date of the occurrence of the event. 58733  
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(e) When determining the value of the transferred resource under this provision, the value of the trust shall be its value on the date payment to the applicant or recipient was foreclosed. 58736  
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(f) Any income earned or other resources added subsequent to the foreclosure date shall be added to the total value of the trust. 58739  
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(g) Any payments to or for the benefit of the applicant or recipient after the foreclosure date but prior to the application 58742  
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date shall be subtracted from the total value. Any other payments 58744  
shall not be subtracted from the value. 58745

(h) Any addition of resources after the foreclosure date 58746  
shall be considered a separate transfer. 58747

(4) If a trust is funded with assets of another person or 58748  
persons in addition to assets of the applicant or recipient, the 58749  
applicable provisions of this section and rules adopted by the 58750  
department of job and family services governing trusts shall apply 58751  
only to the portion of the trust attributable to the applicant or 58752  
recipient. 58753

(5) The availability of a self-settled trust shall be 58754  
considered without regard to any of the following: 58755

(a) The purpose for which the trust is established; 58756

(b) Whether the trustees have exercised or may exercise 58757  
discretion under the trust; 58758

(c) Any restrictions on when or whether distributions may be 58759  
made from the trust; 58760

(d) Any restrictions on the use of distributions from the 58761  
trust. 58762

(6) The baseline date for the look-back period for transfers 58763  
of assets involving a self-settled trust shall be the date on 58764  
which the applicant or recipient is both institutionalized and 58765  
first applies for medical assistance. The following conditions 58766  
also apply to look-back periods for transfers of assets involving 58767  
self-settled trusts: 58768

(a) If a self-settled trust is a revocable trust and a 58769  
portion of the trust is distributed to someone other than the 58770  
applicant or recipient for the benefit of someone other than the 58771  
applicant or recipient, the distribution shall be considered an 58772  
improper transfer of resources. The look-back period shall be 58773

sixty months from the baseline date. The transfer shall be 58774  
considered to have taken place on the date on which the payment to 58775  
someone other than the applicant or recipient was made. 58776

(b) If a self-settled trust is an irrevocable trust and a 58777  
portion of the trust is not distributable to the applicant or 58778  
recipient, the trust shall be treated as an improper transfer of 58779  
resources. The look-back period shall be sixty months from the 58780  
baseline date. The transfer is considered to have been made as of 58781  
the later of the date the trust was established or the date on 58782  
which payment to the applicant or recipient was foreclosed. The 58783  
value of these assets shall not be reduced by any payments from 58784  
the trust that may be made from these unavailable assets at a 58785  
later date. 58786

(c) If a self-settled trust is an irrevocable trust and a 58787  
portion or all of the trust may be disbursed to or for the benefit 58788  
of the applicant or recipient, any payment that is made to another 58789  
person other than the applicant or recipient shall be considered 58790  
an improper transfer of resources. The look-back period shall be 58791  
thirty-six months from the baseline date. The transfer shall be 58792  
considered to have been made as of the date of payment to the 58793  
other person. 58794

(F) The principal or income from any of the following shall 58795  
be exempt from being counted as a resource by a county department 58796  
of job and family services: 58797

(1)(a) A special needs trust that meets all of the following 58798  
requirements: 58799

(i) The trust contains assets of an applicant or recipient 58800  
under sixty-five years of age and may contain the assets of other 58801  
individuals. 58802

(ii) The applicant or recipient is disabled as defined in 58803  
rules adopted by the department of job and family services. 58804

(iii) The trust is established for the benefit of the applicant or recipient by a parent, grandparent, legal guardian, or a court. 58805  
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(iv) The trust requires that on the death of the applicant or recipient the state will receive all amounts remaining in the trust up to an amount equal to the total amount of medical assistance paid on behalf of the applicant or recipient. 58808  
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(b) If a special needs trust meets the requirements of division (F)(1)(a) of this section and has been established for a disabled applicant or recipient under sixty-five years of age, the exemption for the trust granted pursuant to division (F) of this section shall continue after the disabled applicant or recipient becomes sixty-five years of age if the applicant or recipient continues to be disabled as defined in rules adopted by the department of job and family services. Except for income earned by the trust, the grantor shall not add to or otherwise augment the trust after the applicant or recipient attains sixty-five years of age. An addition or augmentation of the trust by the applicant or recipient with the applicant's own assets after the applicant or recipient attains sixty-five years of age shall be treated as an improper transfer of resources. 58812  
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(c) Cash distributions to the applicant or recipient shall be counted as unearned income. All other distributions from the trust shall be treated as provided in rules adopted by the department of job and family services governing in-kind income. 58826  
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(d) Transfers of assets to a special needs trust shall not be treated as an improper transfer of resources. Assets held prior to the transfer to the trust shall be considered as countable assets or countable income or countable assets and income. 58830  
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(2)(a) A qualifying income trust that meets all of the following requirements: 58834  
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<u>(i) The trust is composed only of pension, social security,</u>	58836
<u>and other income to the applicant or recipient, including</u>	58837
<u>accumulated interest in the trust.</u>	58838
<u>(ii) The income is received by the individual and the right</u>	58839
<u>to receive the income is not assigned or transferred to the trust.</u>	58840
<u>(iii) The trust requires that on the death of the applicant</u>	58841
<u>or recipient the state will receive all amounts remaining in the</u>	58842
<u>trust up to an amount equal to the total amount of medical</u>	58843
<u>assistance paid on behalf of the applicant or recipient.</u>	58844
<u>(b) No resources shall be used to establish or augment the</u>	58845
<u>trust.</u>	58846
<u>(c) If an applicant or recipient has irrevocably transferred</u>	58847
<u>or assigned the applicant's or recipient's right to receive income</u>	58848
<u>to the trust, the trust shall not be considered a qualifying</u>	58849
<u>income trust by the county department of job and family services.</u>	58850
<u>(d) Income placed in a qualifying income trust shall not be</u>	58851
<u>counted in determining an applicant's or recipient's eligibility</u>	58852
<u>for medical assistance. The recipient of the funds may place any</u>	58853
<u>income directly into a qualifying income trust without those funds</u>	58854
<u>adversely affecting the applicant's or recipient's eligibility for</u>	58855
<u>medical assistance. Income generated by the trust that remains in</u>	58856
<u>the trust shall not be considered as income to the applicant or</u>	58857
<u>recipient.</u>	58858
<u>(e) All income placed in a qualifying income trust shall be</u>	58859
<u>combined with any countable income not placed in the trust to</u>	58860
<u>arrive at a base income figure to be used for spend down</u>	58861
<u>calculations.</u>	58862
<u>(f) The base income figure shall be used for post-eligibility</u>	58863
<u>deductions, including personal needs allowance, monthly income</u>	58864
<u>allowance, family allowance, and medical expenses not subject to</u>	58865

third party payment. Any income remaining shall be used toward 58866  
payment of patient liability. Payments made from a qualifying 58867  
income trust shall not be combined with the base income figure for 58868  
post-eligibility calculations. 58869

(g) The base income figure shall be used when determining the 58870  
spend down budget for the applicant or recipient. Any income 58871  
remaining after allowable deductions are permitted as provided 58872  
under rules adopted by the department of job and family services 58873  
shall be considered the applicant's or recipient's spend down 58874  
liability. 58875

(3)(a) A pooled trust that meets all of the following 58876  
requirements: 58877

(i) The trust contains the assets of the applicant or 58878  
recipient of any age who is disabled as defined in rules adopted 58879  
by the department of job and family services. 58880

(ii) The trust is established and managed by a nonprofit 58881  
association. 58882

(iii) A separate account is maintained for each beneficiary 58883  
of the trust but, for purposes of investment and management of 58884  
funds, the trust pools the funds in these accounts. 58885

(iv) Accounts in the trust are established by the applicant 58886  
or recipient, the applicant's or recipient's parent, grandparent, 58887  
or legal guardian, or a court solely for the benefit of 58888  
individuals who are disabled. 58889

(v) The trust requires that, to the extent that any amounts 58890  
remaining in the beneficiary's account on the death of the 58891  
beneficiary are not retained by the trust, the trust pay to the 58892  
state the amounts remaining in the trust up to an amount equal to 58893  
the total amount of medical assistance paid on behalf of the 58894  
beneficiary. 58895



(b) Cash distributions to the applicant or recipient shall be counted as unearned income. All other distributions from the trust shall be treated as provided in rules adopted by the department of job and family services governing in-kind income. 58896  
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(c) Transfers of assets to a pooled trust shall not be treated as an improper transfer of resources. Assets held prior to the transfer to the trust shall be considered as countable assets, countable income, or countable assets and income. 58900  
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(4) A supplemental services trust that meets the requirements of section 1339.51 of the Revised Code and to which all of the following apply: 58904  
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(a) A person may establish a supplemental services trust pursuant to section 1339.51 of the Revised Code only for another person who is eligible to receive services through one of the following agencies: 58907  
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(i) The department of mental retardation and developmental disabilities; 58911  
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(ii) A county board of mental retardation and developmental disabilities; 58913  
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(iii) The department of mental health; 58915

(iv) A board of alcohol, drug addiction, and mental health services. 58916  
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(b) A county department of job and family services shall not determine eligibility for another agency's program. An applicant or recipient shall do one of the following: 58918  
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(i) Provide documentation from one of the agencies listed in division (F)(4)(a) of this section that establishes that the applicant or recipient was determined to be eligible for services from the agency at the time of the creation of the trust; 58921  
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(ii) Provide an order from a court of competent jurisdiction 58925

that states that the applicant or recipient was eligible for 58926  
services from one of the agencies listed in division (F)(4)(a) of 58927  
this section at the time of the creation of the trust. 58928

(c) At the time the trust is created, the trust principal 58929  
does not exceed the maximum amount permitted. The maximum amount 58930  
permitted in calendar year 2002 is two hundred fourteen thousand 58931  
dollars. Each year thereafter, the maximum amount permitted is the 58932  
prior year's amount plus two thousand dollars. 58933

(d) A county department of job and family services shall 58934  
review the trust to determine whether it complies with the 58935  
provisions of section 1339.51 of the Revised Code. 58936

(e) Payments from supplemental services trusts shall be 58937  
exempt as long as the payments are for supplemental services as 58938  
defined in rules adopted by the department of job and family 58939  
services. All supplemental services shall be purchased by the 58940  
trustee and shall not be purchased through direct cash payments to 58941  
the beneficiary. 58942

(f) If a trust is represented as a supplemental services 58943  
trust and a county department of job and family services 58944  
determines that the trust does not meet the requirements provided 58945  
in division (F)(4) of this section and section 1339.51 of the 58946  
Revised Code, the county department of job and family services 58947  
shall not consider it an exempt trust. 58948

(G)(1) A trust or legal instrument or device similar to a 58949  
trust shall be considered a trust established by an individual for 58950  
the benefit of the applicant or recipient if all of the following 58951  
apply: 58952

(a) The trust is created by a person other than the applicant 58953  
or recipient. 58954

(b) The trust names the applicant or recipient as a 58955  
beneficiary. 58956

(c) The trust is funded with assets or property in which the applicant or recipient has never held an ownership interest prior to the establishment of the trust. 58957  
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(2) Any portion of a trust that meets the requirements of division (G)(1) of this section shall be an available resource only if the trust permits the trustee to expend principal, corpus, or assets of the trust for the applicant's or recipient's medical care, care, comfort, maintenance, health, welfare, general well being, or any combination of these purposes. 58960  
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(3) A trust that meets the requirements of division (G)(1) of this section shall be considered an available resource even if the trust contains any of the following types of provisions: 58966  
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(a) A provision that prohibits the trustee from making payments that would supplant or replace medical assistance or other public assistance; 58969  
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(b) A provision that prohibits the trustee from making payments that would impact or have an effect on the applicant's or recipient's right, ability, or opportunity to receive medical assistance or other public assistance; 58972  
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(c) A provision that attempts to prevent the trust or its corpus or principal from being counted as an available resource. 58976  
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(4) A trust that meets the requirements of division (G)(1) of this section shall not be counted as an available resource if at least one of the following circumstances applies: 58978  
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(a) If a trust contains a clear statement requiring the trustee to preserve a portion of the trust for another beneficiary or remainderman, that portion of the trust shall not be counted as an available resource. Terms of a trust that grant discretion to preserve a portion of the trust shall not qualify as a clear statement requiring the trustee to preserve a portion of the 58981  
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trust. 58987

(b) If a trust contains a clear statement requiring the trustee to use a portion of the trust for a purpose other than medical care, care, comfort, maintenance, welfare, or general well being of the applicant or recipient, that portion of the trust shall not be counted as an available resource. Terms of a trust that grant discretion to limit the use of a portion of the trust shall not qualify as a clear statement requiring the trustee to use a portion of the trust for a particular purpose. 58988  
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(c) If a trust contains a clear statement limiting the trustee to making fixed periodic payments, the trust shall not be counted as an available resource and payments shall be treated in accordance with rules adopted by the department of job and family services governing income. Terms of a trust that grant discretion to limit payments shall not qualify as a clear statement requiring the trustee to make fixed periodic payments. 58996  
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(d) If a trust contains a clear statement that requires the trustee to terminate the trust if it is counted as an available resource, the trust shall not be counted as an available resource. Terms of a trust that grant discretion to terminate the trust do not qualify as a clear statement requiring the trustee to terminate the trust. 59003  
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(e) If a person obtains a judgment from a court of competent jurisdiction that expressly prevents the trustee from using part or all of the trust for the medical care, care, comfort, maintenance, welfare, or general well being of the applicant or recipient, the trust or that portion of the trust subject to the court order shall not be counted as a resource. 59009  
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(f) If a trust is specifically exempt from being counted as an available resource by a provision of the Revised Code, rules, or federal law, the trust shall not be counted as a resource. 59015  
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(g) If an applicant or recipient presents a final judgment from a court demonstrating that the applicant or recipient was unsuccessful in a civil action against the trustee to compel payments from the trust, the trust shall not be counted as an available resource. 59018  
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(h) If an applicant or recipient presents a final judgment from a court demonstrating that in a civil action against the trustee the applicant or recipient was only able to compel limited or periodic payments, the trust shall not be counted as an available resource and payments shall be treated in accordance with rules adopted by the department of job and family services governing income. 59023  
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(i) If an applicant or recipient provides written documentation showing that the cost of a civil action brought to compel payments from the trust would be cost prohibitive, the trust shall not be counted as an available resource. 59030  
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(5) Any actual payments to the applicant or recipient from a trust that meet the requirements of division (G)(1) of this section, including trusts that are not counted as an available resource, shall be treated as provided in rules adopted by the department of job and family services governing income. Payments to any person other than the applicant or recipient shall not be considered income to the applicant or recipient. Payments from the trust to a person other than the applicant or recipient shall not be considered an improper transfer of assets. 59034  
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Sec. 5111.16. (A) As part of the medicaid program, the department of job and family services shall establish a care management system. The department shall submit, if necessary, applications to the United States department of health and human services for waivers of federal medicaid requirements that would otherwise be violated in the implementation of the system. 59043  
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The department shall implement the care management system in some or all counties and shall designate the medicaid recipients who are required or permitted to participate in the system. In the case of individuals who receive medicaid on the basis of being aged, blind, or disabled, as specified in division (A)(2) of section 5111.01 of the Revised Code, all of the following apply:

(1) Not later than July 1, 2004, the department shall designate a portion of the individuals for participation in the care management system.

(2) Individuals shall not be designated for participation unless they reside in a county in which individuals who receive medicaid on another basis have been designated for participation.

(3) If, pursuant to division (B)(2) of this section, the department requires or permits the individuals to obtain health care services through managed care organizations, the department shall select the managed care organizations to be used by the individuals through a request for proposals process. The department shall issue its initial request for proposals not later than December 31, 2003.

(4) Individuals shall not be required to obtain health care services through managed care organizations unless they are at least twenty-one years of age.

(B) Under the care management system, the department may do both of the following:

(1) Require or permit participants in the system to obtain health care services from providers designated by the department;

(2) Subject to division (A)(4) of this section, require or permit participants in the system to obtain health care services through managed care organizations under contract with the department pursuant to section 5111.17 of the Revised Code.

(C) The director of job and family services may adopt rules in accordance with Chapter 119. of the Revised Code to implement this section. 59079  
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Sec. 5111.161. (A) As used in this section, "chronically ill child" means an individual who is not more than twenty-one years of age and meets the conditions specified in division (A)(2) of section 5111.01 of the Revised Code to be eligible for medicaid on the basis of being blind or disabled. 59082  
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(B) The department of job and family services shall develop a pilot program under which chronically ill children are included among the medicaid recipients who are required to participate in the care management system established under section 5111.16 of the Revised Code. The pilot program shall be implemented not later than October 1, 2004, or, if by that date the department has not received any necessary federal approval to implement the program, as soon as practicable after receiving the approval. The department shall operate the program until October 1, 2006, except that the department shall cease operation of the program before that date if either of the following is the case: 59087  
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(1) The department determines that requiring chronically ill children to participate in the care management system is not a cost-effective means of providing medicaid services; 59098  
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(2) The combined state and federal cost of the children's care coordination described in division (D) of this section reaches three million dollars. 59101  
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(C) The department shall ensure that the pilot program is operated in at least three counties selected by the department. In its consideration of the counties to be selected, the department may give priority to Hamilton county and Muskingum county. The department may extend its operation of the program into the areas 59104  
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surrounding the counties in which the program is operated. 59109

(D) The purpose of the pilot program shall be to determine whether occurrences of acute illnesses and hospitalizations among chronically ill children can be prevented or reduced by establishing a medical home for the children where care is administered proactively and in a manner that is accessible, continuous, family-centered, coordinated, and compassionate. In establishing a medical home for a chronically ill child, all of the following apply: 59110  
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(1) A physician shall serve as the care coordinator for the child. The care coordinator may be engaged in practice as a pediatrician certified in pediatrics by a medical specialty board of the American medical association or American osteopathic association, a pediatric subspecialist, or a provider for the bureau of children with medical handicaps within the department of health. If the physician is in a group practice, any member of the group practice may serve as the child's care coordinator. The duties of the care coordinator may be performed by a person acting under the supervision of the care coordinator. 59118  
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(2) The child may receive care from any health care practitioner appropriate to the child's needs, but the care coordinator shall direct and oversee the child's overall care. 59128  
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(3) The care coordinator shall establish a relationship of mutual responsibility with the child's parents or other persons who are responsible for the child. Under this relationship, the care coordinator shall commit to developing a long-term disease prevention strategy and providing disease management and education services, while the child's parents or other persons who are responsible for the child shall commit to participate fully in implementing the child's care management plan. 59131  
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(4) The medicaid program shall provide reimbursement for the 59139



reasonable and necessary costs of the services associated with 59140  
care coordination, including, but not limited to, case management, 59141  
care plan oversight, preventive care, health and behavioral care 59142  
assessment and intervention, and any service modifier that 59143  
reflects the provision of prolonged services or additional care. 59144

(E) The department shall conduct an evaluation of the pilot 59145  
program's effectiveness. As part of the evaluation, the department 59146  
shall maintain statistics on physician expenditures, hospital 59147  
expenditures, preventable hospitalizations, and other matters the 59148  
department considers necessary to conduct the evaluation. 59149

(F) The department shall adopt rules in accordance with 59150  
Chapter 119. of the Revised Code as necessary to implement this 59151  
section. The rules shall specify standards and procedures to be 59152  
used in designating the chronically ill children who are required 59153  
to participate in the pilot program. 59154

~~Sec. 5111.17. (A) On receipt of a waiver from the United~~ 59155  
~~States department of health and human services of any federal~~ 59156  
~~requirement that would otherwise be violated, the~~ The department 59157  
~~of job and family services may establish in some or all counties a~~ 59158  
~~managed care system under which designated recipients of medical~~ 59159  
~~assistance are required to obtain health care services from~~ 59160  
~~providers designated by the department.~~ 59161

~~(B) The department may enter into contracts with managed care~~ 59162  
~~organizations to authorize, including health insuring~~ 59163  
corporations, under which the organizations are authorized to 59164  
~~provide, or arrange for the provision of, health care services to~~ 59165  
~~medical assistance recipients participating in a~~ who are required 59166  
or permitted to obtain health care services through managed care 59167  
organizations as part of the care management system established 59168  
~~under this section~~ 5111.16 of the Revised Code. 59169

~~(C) For the purpose of determining the amount the department~~ 59170

~~pays hospitals under section 5112.08 of the Revised Code and the amount of disproportionate share hospital payments paid by the medicare program established under Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended, each managed care organization under contract with the department to provide hospital services to participating medical assistance recipients shall keep detailed records for each hospital with which it contracts about the cost to the hospital of providing the care, payments made by the organization to the hospital for the care, utilization of hospital services by medical assistance recipients participating in managed care, and other utilization data required by the department.~~

~~(D)~~(B) The director of job and family services may adopt rules in accordance with Chapter 119. of the Revised Code to implement this section.

**Sec. 5111.171.** (A) The department of job and family services may provide financial incentive awards to managed care organizations ~~that~~ under contract with the department ~~under~~ pursuant to section 5111.17 of the Revised Code ~~to provide health care services to participating medical assistance recipients and~~ that meet or exceed performance standards specified in provider agreements or rules adopted by the department. The department may specify in a contract with a managed care organization the amounts of financial incentive awards, methodology for distributing awards, types of awards, and standards for administration by the department.

(B) There is hereby created in the state treasury the health care compliance fund. The fund shall consist of all fines imposed on and collected from managed care organizations for failure to ~~meet~~ meet performance standards or other requirements specified in provider agreements or rules adopted by the department. All

investment earnings of the fund shall be credited to the fund. 59202  
Moneys credited to the fund shall be used solely for the following 59203  
purposes: 59204

(1) To reimburse managed care organizations that have paid 59205  
fines for failures to meet performance standards or other 59206  
requirements and that have come into compliance by meeting 59207  
requirements as specified by the department; 59208

(2) To provide financial incentive awards established 59209  
pursuant to division (A) of this section and specified in 59210  
contracts between managed care organizations and the department. 59211

Sec. 5111.172. When contracting under section 5111.17 of the 59212  
Revised Code with a managed care organization that is a health 59213  
insuring corporation, the department of job and family services 59214  
may require the health insuring corporation to provide coverage of 59215  
prescription drugs for medicaid recipients enrolled in the health 59216  
insuring corporation. In providing the required coverage, the 59217  
health insuring corporation may, subject to the department's 59218  
approval, use strategies for the management of drug utilization. 59219

Sec. 5111.173. The department of job and family services 59220  
shall appoint a temporary manager for a managed care organization 59221  
under contract with the department pursuant to section 5111.17 of 59222  
the Revised Code if the department determines that the managed 59223  
care organization has repeatedly failed to meet substantive 59224  
requirements specified in section 1903(m) of the "Social Security 59225  
Act," 79 Stat. 286 (1965), 42 U.S.C. 1396b(m), as amended; section 59226  
1932 of the Social Security Act, 42 U.S.C. 1396u-2, as amended; or 59227  
42 C.F.R. 438 Part I. The appointment of a temporary manager does 59228  
not preclude the department from imposing other sanctions 59229  
available to the department against the managed care organization. 59230

The managed care organization shall pay all costs of having 59231

the temporary manager perform the temporary manager's duties, 59232  
including all costs the temporary manager incurs in performing 59233  
those duties. If the temporary manager incurs costs or liabilities 59234  
on behalf of the managed care organization, the managed care 59235  
organization shall pay those costs and be responsible for those 59236  
liabilities. 59237

The appointment of a temporary manager is not subject to 59238  
Chapter 119. of the Revised Code, but the managed care 59239  
organization may request a reconsideration of the appointment. 59240  
Reconsiderations shall be requested and conducted in accordance 59241  
with rules the director of job and family services shall adopt in 59242  
accordance with Chapter 119. of the Revised Code. 59243

The appointment of a temporary manager does not cause the 59244  
managed care organization to lose the right to appeal, in 59245  
accordance with Chapter 119. of the Revised Code, any proposed 59246  
termination or any decision not to renew the managed care 59247  
organization's medicaid provider agreement or the right to 59248  
initiate the sale of the managed care organization or its assets. 59249

In addition to the rules required to be adopted under this 59250  
section, the director may adopt any other rules necessary to 59251  
implement this section. The rules shall be adopted in accordance 59252  
with Chapter 119. of the Revised Code. 59253

**Sec. 5111.174.** The department of job and family services may 59254  
disenroll some or all medicaid recipients enrolled in a managed 59255  
care organization under contract with the department pursuant to 59256  
section 5111.17 of the Revised Code if the department proposes to 59257  
terminate or not to renew the contract and determines that the 59258  
recipients' access to medically necessary services is jeopardized 59259  
by the proposal to terminate or not to renew the contract. The 59260  
disenrollment is not subject to Chapter 119. of the Revised Code, 59261  
but the managed care organization may request a reconsideration of 59262

the disenrollment. Reconsiderations shall be requested and 59263  
conducted in accordance with rules the director of job and family 59264  
services shall adopt in accordance with Chapter 119. of the 59265  
Revised Code. The request for, or conduct of, a reconsideration 59266  
regarding a proposed disenrollment shall not delay the 59267  
disenrollment. 59268

In addition to the rules required to be adopted under this 59269  
section, the director may adopt any other rules necessary to 59270  
implement this section. The rules shall be adopted in accordance 59271  
with Chapter 119. of the Revised Code. 59272

Sec. 5111.175. For the purpose of determining the amount the 59273  
department of job and family services pays hospitals under section 59274  
5112.08 of the Revised Code and the amount of disproportionate 59275  
share hospital payments paid by the medicare program established 59276  
under Title XVIII of the "Social Security Act," 79 Stat. 286 59277  
(1965), 42 U.S.C. 1396n, as amended, a managed care organization 59278  
under contract with the department pursuant to section 5111.17 of 59279  
the Revised Code authorizing the organization to provide, or 59280  
arrange for the provision of, hospital services to medicaid 59281  
recipients shall keep detailed records for each hospital with 59282  
which it contracts about the cost to the hospital of providing the 59283  
services, payments made by the organization to the hospital for 59284  
the services, utilization of hospital services by medicaid 59285  
recipients enrolled in the organization, and other utilization 59286  
data required by the department. 59287

Sec. 5111.20. As used in sections 5111.20 to ~~5111.32~~ 5111.34 59288  
of the Revised Code: 59289

(A) "Allowable costs" are those costs determined by the 59290  
department of job and family services to be reasonable and do not 59291  
include fines paid under sections 5111.35 to 5111.61 and section 59292

5111.99 of the Revised Code.	59293
(B) "Capital costs" means costs of ownership and nonextensive renovation.	59294 59295
(1) "Cost of ownership" means the actual expense incurred for all of the following:	59296 59297
(a) Depreciation and interest on any capital assets that cost five hundred dollars or more per item, including the following:	59298 59299
(i) Buildings;	59300
(ii) Building improvements that are not approved as nonextensive renovations under section 5111.25 or 5111.251 of the Revised Code;	59301 59302 59303
(iii) Equipment;	59304
(iv) Extensive renovations;	59305
(v) Transportation equipment.	59306
(b) Amortization and interest on land improvements and leasehold improvements;	59307 59308
(c) Amortization of financing costs;	59309
(d) Except as provided in division (I) of this section, lease and rent of land, building, and equipment.	59310 59311
The costs of capital assets of less than five hundred dollars per item may be considered costs of ownership in accordance with a provider's practice.	59312 59313 59314
(2) "Costs of nonextensive renovation" means the actual expense incurred for depreciation or amortization and interest on renovations that are not extensive renovations.	59315 59316 59317
(C) "Capital lease" and "operating lease" shall be construed in accordance with generally accepted accounting principles.	59318 59319
(D) "Case-mix score" means the measure determined under	59320

section 5111.231 of the Revised Code of the relative direct-care 59321  
resources needed to provide care and habilitation to a resident of 59322  
a nursing facility or intermediate care facility for the mentally 59323  
retarded. 59324

(E) "Date of licensure," for a facility originally licensed 59325  
as a nursing home under Chapter 3721. of the Revised Code, means 59326  
the date specific beds were originally licensed as nursing home 59327  
beds under that chapter, regardless of whether they were 59328  
subsequently licensed as residential facility beds under section 59329  
5123.19 of the Revised Code. For a facility originally licensed as 59330  
a residential facility under section 5123.19 of the Revised Code, 59331  
"date of licensure" means the date specific beds were originally 59332  
licensed as residential facility beds under that section. 59333

(1) If nursing home beds licensed under Chapter 3721. of the 59334  
Revised Code or residential facility beds licensed under section 59335  
5123.19 of the Revised Code were not required by law to be 59336  
licensed when they were originally used to provide nursing home or 59337  
residential facility services, "date of licensure" means the date 59338  
the beds first were used to provide nursing home or residential 59339  
facility services, regardless of the date the present provider 59340  
obtained licensure. 59341

(2) If a facility adds nursing home beds or residential 59342  
facility beds or extensively renovates all or part of the facility 59343  
after its original date of licensure, it will have a different 59344  
date of licensure for the additional beds or extensively renovated 59345  
portion of the facility, unless the beds are added in a space that 59346  
was constructed at the same time as the previously licensed beds 59347  
but was not licensed under Chapter 3721. or section 5123.19 of the 59348  
Revised Code at that time. 59349

(F) "Desk-reviewed" means that costs as reported on a cost 59350  
report submitted under section 5111.26 of the Revised Code have 59351  
been subjected to a desk review under division (A) of section 59352

5111.27 of the Revised Code and preliminarily determined to be allowable costs.	59353 59354
(G) "Direct care costs" means all of the following:	59355
(1)(a) Costs for registered nurses, licensed practical nurses, and nurse aides employed by the facility;	59356 59357
(b) Costs for direct care staff, administrative nursing staff, medical directors, social services staff, activities staff, psychologists and psychology assistants, social workers and counselors, habilitation staff, qualified mental retardation professionals, program directors, respiratory therapists, habilitation supervisors, and except as provided in division (G)(2) of this section, other persons holding degrees qualifying them to provide therapy;	59358 59359 59360 59361 59362 59363 59364 59365
(c) Costs of purchased nursing services;	59366
(d) Costs of quality assurance;	59367
(e) Costs of training and staff development, employee benefits, payroll taxes, and workers' compensation premiums or costs for self-insurance claims and related costs as specified in rules adopted by the director of job and family services in accordance with Chapter 119. of the Revised Code, for personnel listed in divisions (G)(1)(a), (b), and (d) of this section;	59368 59369 59370 59371 59372 59373
(f) Costs of consulting and management fees related to direct care;	59374 59375
(g) Allocated direct care home office costs.	59376
(2) In addition to the costs specified in division (G)(1) of this section, for intermediate care facilities for the mentally retarded only, direct care costs include both of the following:	59377 59378 59379
(a) Costs for physical therapists and physical therapy assistants, occupational therapists and occupational therapy assistants, speech therapists, and audiologists;	59380 59381 59382



(b) Costs of training and staff development, employee 59383  
benefits, payroll taxes, and workers' compensation premiums or 59384  
costs for self-insurance claims and related costs as specified in 59385  
rules adopted by the director of job and family services in 59386  
accordance with Chapter 119. of the Revised Code, for personnel 59387  
listed in division (G)(2)(a) of this section. 59388

(3) Costs of other direct-care resources that are specified 59389  
as direct care costs in rules adopted by the director of job and 59390  
family services in accordance with Chapter 119. of the Revised 59391  
Code. 59392

(H) "Fiscal year" means the fiscal year of this state, as 59393  
specified in section 9.34 of the Revised Code. 59394

(I) "Indirect care costs" means all reasonable costs other 59395  
than direct care costs, other protected costs, or capital costs. 59396  
"Indirect care costs" includes but is not limited to costs of 59397  
habilitation supplies, pharmacy consultants, medical and 59398  
habilitation records, program supplies, incontinence supplies, 59399  
food, enterals, dietary supplies and personnel, laundry, 59400  
housekeeping, security, administration, liability insurance, 59401  
bookkeeping, purchasing department, human resources, 59402  
communications, travel, dues, license fees, subscriptions, home 59403  
office costs not otherwise allocated, legal services, accounting 59404  
services, minor equipment, maintenance and repairs, help-wanted 59405  
advertising, informational advertising, ~~consumer satisfaction~~ 59406  
~~survey fees paid under section 173.55 of the Revised Code,~~ 59407  
start-up costs, organizational expenses, other interest, property 59408  
insurance, employee training and staff development, employee 59409  
benefits, payroll taxes, and workers' compensation premiums or 59410  
costs for self-insurance claims and related costs as specified in 59411  
rules adopted by the director of job and family services in 59412  
accordance with Chapter 119. of the Revised Code, for personnel 59413  
listed in this division. Notwithstanding division (B)(1) of this 59414

section, "indirect care costs" also means the cost of equipment, 59415  
including vehicles, acquired by operating lease executed before 59416  
December 1, 1992, if the costs are reported as administrative and 59417  
general costs on the facility's cost report for the cost reporting 59418  
period ending December 31, 1992. 59419

(J) "Inpatient days" means all days during which a resident, 59420  
regardless of payment source, occupies a bed in a nursing facility 59421  
or intermediate care facility for the mentally retarded that is 59422  
included in the facility's certified capacity under Title XIX of 59423  
the "Social Security Act," 49 Stat. 610 (1935), 42 U.S.C.A. 301, 59424  
as amended. Therapeutic or hospital leave days for which payment 59425  
is made under section 5111.33 of the Revised Code are considered 59426  
inpatient days proportionate to the percentage of the facility's 59427  
per resident per day rate paid for those days. 59428

(K) "Intermediate care facility for the mentally retarded" 59429  
means an intermediate care facility for the mentally retarded 59430  
certified as in compliance with applicable standards for the 59431  
medical assistance program by the director of health in accordance 59432  
with Title XIX of the "Social Security Act." 59433

(L) "Maintenance and repair expenses" means, except as 59434  
provided in division (X)(2) of this section, expenditures that are 59435  
necessary and proper to maintain an asset in a normally efficient 59436  
working condition and that do not extend the useful life of the 59437  
asset two years or more. "Maintenance and repair expenses" 59438  
includes but is not limited to the cost of ordinary repairs such 59439  
as painting and wallpapering. 59440

(M) "Nursing facility" means a facility, or a distinct part 59441  
of a facility, that is certified as a nursing facility by the 59442  
director of health in accordance with Title XIX of the "Social 59443  
Security Act," and is not an intermediate care facility for the 59444  
mentally retarded. "Nursing facility" includes a facility, or a 59445  
distinct part of a facility, that is certified as a nursing 59446

facility by the director of health in accordance with Title XIX of 59447  
the "Social Security Act," and is certified as a skilled nursing 59448  
facility by the director in accordance with Title XVIII of the 59449  
"Social Security Act." 59450

(N) "Other protected costs" means costs for medical supplies; 59451  
real estate, franchise, and property taxes; natural gas, fuel oil, 59452  
water, electricity, sewage, and refuse and hazardous medical waste 59453  
collection; allocated other protected home office costs; and any 59454  
additional costs defined as other protected costs in rules adopted 59455  
by the director of job and family services in accordance with 59456  
Chapter 119. of the Revised Code. 59457

(O) "Owner" means any person or government entity that has at 59458  
least five per cent ownership or interest, either directly, 59459  
indirectly, or in any combination, in a nursing facility or 59460  
intermediate care facility for the mentally retarded. 59461

(P) "Patient" includes "resident." 59462

(Q) Except as provided in divisions (Q)(1) and (2) of this 59463  
section, "per diem" means a nursing facility's or intermediate 59464  
care facility for the mentally retarded's actual, allowable costs 59465  
in a given cost center in a cost reporting period, divided by the 59466  
facility's inpatient days for that cost reporting period. 59467

(1) When calculating indirect care costs for the purpose of 59468  
establishing rates under section 5111.24 or 5111.241 of the 59469  
Revised Code, "per diem" means a facility's actual, allowable 59470  
indirect care costs in a cost reporting period divided by the 59471  
greater of the facility's inpatient days for that period or the 59472  
number of inpatient days the facility would have had during that 59473  
period if its occupancy rate had been eighty-five per cent. 59474

(2) When calculating capital costs for the purpose of 59475  
establishing rates under section 5111.25 or 5111.251 of the 59476  
Revised Code, "per diem" means a facility's actual, allowable 59477

capital costs in a cost reporting period divided by the greater of 59478  
the facility's inpatient days for that period or the number of 59479  
inpatient days the facility would have had during that period if 59480  
its occupancy rate had been ninety-five per cent. 59481

(R) "Provider" means a person or government entity that 59482  
operates a nursing facility or intermediate care facility for the 59483  
mentally retarded under a provider agreement. 59484

(S) "Provider agreement" means a contract between the 59485  
department of job and family services and a nursing facility or 59486  
intermediate care facility for the mentally retarded for the 59487  
provision of nursing facility services or intermediate care 59488  
facility services for the mentally retarded under the medical 59489  
assistance program. 59490

(T) "Purchased nursing services" means services that are 59491  
provided in a nursing facility by registered nurses, licensed 59492  
practical nurses, or nurse aides who are not employees of the 59493  
facility. 59494

(U) "Reasonable" means that a cost is an actual cost that is 59495  
appropriate and helpful to develop and maintain the operation of 59496  
patient care facilities and activities, including normal standby 59497  
costs, and that does not exceed what a prudent buyer pays for a 59498  
given item or services. Reasonable costs may vary from provider to 59499  
provider and from time to time for the same provider. 59500

(V) "Related party" means an individual or organization that, 59501  
to a significant extent, has common ownership with, is associated 59502  
or affiliated with, has control of, or is controlled by, the 59503  
provider. 59504

(1) An individual who is a relative of an owner is a related 59505  
party. 59506

(2) Common ownership exists when an individual or individuals 59507  
possess significant ownership or equity in both the provider and 59508

the other organization. Significant ownership or equity exists 59509  
when an individual or individuals possess five per cent ownership 59510  
or equity in both the provider and a supplier. Significant 59511  
ownership or equity is presumed to exist when an individual or 59512  
individuals possess ten per cent ownership or equity in both the 59513  
provider and another organization from which the provider 59514  
purchases or leases real property. 59515

(3) Control exists when an individual or organization has the 59516  
power, directly or indirectly, to significantly influence or 59517  
direct the actions or policies of an organization. 59518

(4) An individual or organization that supplies goods or 59519  
services to a provider shall not be considered a related party if 59520  
all of the following conditions are met: 59521

(a) The supplier is a separate bona fide organization. 59522

(b) A substantial part of the supplier's business activity of 59523  
the type carried on with the provider is transacted with others 59524  
than the provider and there is an open, competitive market for the 59525  
types of goods or services the supplier furnishes. 59526

(c) The types of goods or services are commonly obtained by 59527  
other nursing facilities or intermediate care facilities for the 59528  
mentally retarded from outside organizations and are not a basic 59529  
element of patient care ordinarily furnished directly to patients 59530  
by the facilities. 59531

(d) The charge to the provider is in line with the charge for 59532  
the goods or services in the open market and no more than the 59533  
charge made under comparable circumstances to others by the 59534  
supplier. 59535

(W) "Relative of owner" means an individual who is related to 59536  
an owner of a nursing facility or intermediate care facility for 59537  
the mentally retarded by one of the following relationships: 59538

(1) Spouse;	59539
(2) Natural parent, child, or sibling;	59540
(3) Adopted parent, child, or sibling;	59541
(4) Step-parent, step-child, step-brother, or step-sister;	59542
(5) Father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, or sister-in-law;	59543 59544
(6) Grandparent or grandchild;	59545
(7) Foster caregiver, foster child, foster brother, or foster sister.	59546 59547
(X) "Renovation" and "extensive renovation" mean:	59548
(1) Any betterment, improvement, or restoration of a nursing facility or intermediate care facility for the mentally retarded started before July 1, 1993, that meets the definition of a renovation or extensive renovation established in rules adopted by the director of job and family services in effect on December 22, 1992.	59549 59550 59551 59552 59553 59554
(2) In the case of betterments, improvements, and restorations of nursing facilities and intermediate care facilities for the mentally retarded started on or after July 1, 1993:	59555 59556 59557 59558
(a) "Renovation" means the betterment, improvement, or restoration of a nursing facility or intermediate care facility for the mentally retarded beyond its current functional capacity through a structural change that costs at least five hundred dollars per bed. A renovation may include betterment, improvement, restoration, or replacement of assets that are affixed to the building and have a useful life of at least five years. A renovation may include costs that otherwise would be considered maintenance and repair expenses if they are an integral part of the structural change that makes up the renovation project.	59559 59560 59561 59562 59563 59564 59565 59566 59567 59568

"Renovation" does not mean construction of additional space for 59569  
beds that will be added to a facility's licensed or certified 59570  
capacity. 59571

(b) "Extensive renovation" means a renovation that costs more 59572  
than sixty-five per cent and no more than eighty-five per cent of 59573  
the cost of constructing a new bed and that extends the useful 59574  
life of the assets for at least ten years. 59575

For the purposes of division (X)(2) of this section, the cost 59576  
of constructing a new bed shall be considered to be forty thousand 59577  
dollars, adjusted for the estimated rate of inflation from January 59578  
1, 1993, to the end of the calendar year during which the 59579  
renovation is completed, using the consumer price index for 59580  
shelter costs for all urban consumers for the north central 59581  
region, as published by the United States bureau of labor 59582  
statistics. 59583

The department of job and family services may treat a 59584  
renovation that costs more than eighty-five per cent of the cost 59585  
of constructing new beds as an extensive renovation if the 59586  
department determines that the renovation is more prudent than 59587  
construction of new beds. 59588

**Sec. 5111.21.** (A) Subject to sections 5111.01, 5111.011, 59589  
5111.012, ~~and~~ 5111.02, and 5111.211 of the Revised Code, the 59590  
department of job and family services shall pay, as provided in 59591  
sections 5111.20 to 5111.32 of the Revised Code, the reasonable 59592  
costs of services provided to an eligible medicaid recipient by an 59593  
eligible nursing facility or intermediate care facility for the 59594  
mentally retarded. 59595

In order to be eligible for medical assistance payments, a 59596  
nursing facility or intermediate care facility for the mentally 59597  
retarded shall do all of the following: 59598

(1) Enter into a provider agreement with the department as provided in section 5111.22 of the Revised Code; 59599  
59600

(2) Apply for and maintain a valid license to operate if so required by law; 59601  
59602

(3) Comply with all applicable state and federal laws and rules. 59603  
59604

(B) A nursing facility that elects to obtain and maintain eligibility for payments under the ~~medicare~~ medicaid program established by ~~Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended~~ may shall qualify all ~~or~~ part of the facility of the facility's medicaid-certified beds in the medicare program established by Title XVIII of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1395. The director of job and family services may adopt rules in accordance with Chapter 119. of the Revised Code to establish the time frame in which a nursing facility must comply with this requirement. 59605  
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Sec. 5111.211. (A) The department of mental retardation and developmental disabilities is responsible for the nonfederal share of claims submitted for services that are covered by the medicaid program and provided to an eligible medicaid recipient by an intermediate care facility for the mentally retarded if all of the following are the case: 59615  
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(1) The services are provided on or after July 1, 2003; 59621

(2) The facility receives initial certification by the director of health as an intermediate care facility for the mentally retarded on or after June 1, 2003; 59622  
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(3) The facility, or a portion of the facility, is licensed by the director of mental retardation and developmental disabilities as a residential facility under section 5123.19 of the Revised Code; 59625  
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59627  
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(4) There is a valid provider agreement for the facility. 59629

(B) Each month, the department of job and family services 59630  
shall invoice the department of mental retardation and 59631  
developmental disabilities by interagency transfer voucher for the 59632  
claims for which the department of mental retardation and 59633  
developmental disabilities is responsible pursuant to this 59634  
section. 59635

**Sec. 5111.22.** A provider agreement between the department of 59636  
job and family services and a nursing facility or intermediate 59637  
care facility for the mentally retarded shall contain the 59638  
following provisions: 59639

(A) The department agrees to+ 59640

~~(1) Make~~ make payments to the nursing facility or 59641  
intermediate care facility for the mentally retarded for patients 59642  
eligible for services under the medical assistance program as 59643  
provided in sections 5111.20 to 5111.32 of the Revised Code. No 59644  
payment shall be made for the day a recipient is discharged from 59645  
the facility. 59646

~~(2) Provide copies of rules governing the facility's~~ 59647  
~~participation as a provider in the medical assistance program.~~ 59648  
~~Whenever the director of job and family services files a proposed~~ 59649  
~~rule or proposed rule in revised form under division (D) of~~ 59650  
~~section 111.15 or division (B) of section 119.03 of the Revised~~ 59651  
~~Code, the department shall provide the facility with one copy of~~ 59652  
~~such rule. In the case of a rescission or proposed rescission of a~~ 59653  
~~rule, the department may provide the rule number and title instead~~ 59654  
~~of the rules rescinded or proposed to be rescinded.~~ 59655

(B) The provider agrees to: 59656

(1) Maintain eligibility as provided in section 5111.21 of 59657  
the Revised Code; 59658

(2) Keep records relating to a cost reporting period for the greater of seven years after the cost report is filed or, if the department issues an audit report in accordance with division (B) of section 5111.27 of the Revised Code, six years after all appeal rights relating to the audit report are exhausted;

(3) File reports as required by the department;

(4) Open all records relating to the costs of its services for inspection and audit by the department;

(5) Open its premises for inspection by the department, the department of health, and any other state or local authority having authority to inspect;

(6) Supply to the department such information as it requires concerning the facility's services to patients who are or are eligible to be medicaid recipients;

(7) Comply with section 5111.31 of the Revised Code.

The provider agreement may contain other provisions that are consistent with law and considered necessary by the department.

A provider agreement shall be effective for no longer than twelve months, except that if federal statute or regulations authorize a longer term, it may be effective for a longer term so authorized. A provider agreement may be renewed only if the facility is certified by the department of health for participation in the medicaid program.

The department of job and family services, in accordance with rules adopted by the director pursuant to Chapter 119. of the Revised Code, may elect not to enter into, not to renew, or to terminate a provider agreement when the department determines that such an agreement would not be in the best interests of the recipients or of the state.

Sec. 5111.251. (A) The department of job and family services 59688  
shall pay each eligible intermediate care facility for the 59689  
mentally retarded for its reasonable capital costs, a per resident 59690  
per day rate established prospectively each fiscal year for each 59691  
intermediate care facility for the mentally retarded. Except as 59692  
otherwise provided in sections 5111.20 to 5111.32 of the Revised 59693  
Code, the rate shall be based on the facility's capital costs for 59694  
the calendar year preceding the fiscal year in which the rate will 59695  
be paid. The rate shall equal the sum of the following: 59696

(1) The facility's desk-reviewed, actual, allowable, per diem 59697  
cost of ownership for the preceding cost reporting period, limited 59698  
as provided in divisions (C) and (F) of this section; 59699

(2) Any efficiency incentive determined under division (B) of 59700  
this section; 59701

(3) Any amounts for renovations determined under division (D) 59702  
of this section; 59703

(4) Any amounts for return on equity determined under 59704  
division (I) of this section. 59705

Buildings shall be depreciated using the straight line method 59706  
over forty years or over a different period approved by the 59707  
department. Components and equipment shall be depreciated using 59708  
the straight line method over a period designated by the director 59709  
of job and family services in rules adopted in accordance with 59710  
Chapter 119. of the Revised Code, consistent with the guidelines 59711  
of the American hospital association, or over a different period 59712  
approved by the department of job and family services. Any rules 59713  
adopted under this division that specify useful lives of 59714  
buildings, components, or equipment apply only to assets acquired 59715  
on or after July 1, 1993. Depreciation for costs paid or 59716  
reimbursed by any government agency shall not be included in costs 59717

of ownership or renovation unless that part of the payment under 59718  
sections 5111.20 to 5111.32 of the Revised Code is used to 59719  
reimburse the government agency. 59720

(B) The department of job and family services shall pay to 59721  
each intermediate care facility for the mentally retarded an 59722  
efficiency incentive equal to fifty per cent of the difference 59723  
between any desk-reviewed, actual, allowable cost of ownership and 59724  
the applicable limit on cost of ownership payments under division 59725  
(C) of this section. For purposes of computing the efficiency 59726  
incentive, depreciation for costs paid or reimbursed by any 59727  
government agency shall be considered as a cost of ownership, and 59728  
the applicable limit under division (C) of this section shall 59729  
apply both to facilities with more than eight beds and facilities 59730  
with eight or fewer beds. The efficiency incentive paid to a 59731  
facility with eight or fewer beds shall not exceed three dollars 59732  
per patient day, adjusted annually for the inflation rate for the 59733  
twelve-month period beginning on the first day of July of the 59734  
calendar year preceding the calendar year that precedes the fiscal 59735  
year for which the efficiency incentive is determined and ending 59736  
on the thirtieth day of the following June, using the consumer 59737  
price index for shelter costs for all urban consumers for the 59738  
north central region, as published by the United States bureau of 59739  
labor statistics. 59740

(C) Cost of ownership payments to intermediate care 59741  
facilities for the mentally retarded with more than eight beds 59742  
shall not exceed the following limits: 59743

(1) For facilities with dates of licensure prior to January 59744  
1, 1958, not exceeding two dollars and fifty cents per patient 59745  
day; 59746

(2) For facilities with dates of licensure after December 31, 59747  
1957, but prior to January 1, 1968, not exceeding: 59748

(a) Three dollars and fifty cents per patient day if the cost of construction was three thousand five hundred dollars or more per bed;	59749 59750 59751
(b) Two dollars and fifty cents per patient day if the cost of construction was less than three thousand five hundred dollars per bed.	59752 59753 59754
(3) For facilities with dates of licensure after December 31, 1967, but prior to January 1, 1976, not exceeding:	59755 59756
(a) Four dollars and fifty cents per patient day if the cost of construction was five thousand one hundred fifty dollars or more per bed;	59757 59758 59759
(b) Three dollars and fifty cents per patient day if the cost of construction was less than five thousand one hundred fifty dollars per bed, but exceeds three thousand five hundred dollars per bed;	59760 59761 59762 59763
(c) Two dollars and fifty cents per patient day if the cost of construction was three thousand five hundred dollars or less per bed.	59764 59765 59766
(4) For facilities with dates of licensure after December 31, 1975, but prior to January 1, 1979, not exceeding:	59767 59768
(a) Five dollars and fifty cents per patient day if the cost of construction was six thousand eight hundred dollars or more per bed;	59769 59770 59771
(b) Four dollars and fifty cents per patient day if the cost of construction was less than six thousand eight hundred dollars per bed but exceeds five thousand one hundred fifty dollars per bed;	59772 59773 59774 59775
(c) Three dollars and fifty cents per patient day if the cost of construction was five thousand one hundred fifty dollars or less per bed, but exceeds three thousand five hundred dollars per	59776 59777 59778

bed;	59779
(d) Two dollars and fifty cents per patient day if the cost	59780
of construction was three thousand five hundred dollars or less	59781
per bed.	59782
(5) For facilities with dates of licensure after December 31,	59783
1978, but prior to January 1, 1980, not exceeding:	59784
(a) Six dollars per patient day if the cost of construction	59785
was seven thousand six hundred twenty-five dollars or more per	59786
bed;	59787
(b) Five dollars and fifty cents per patient day if the cost	59788
of construction was less than seven thousand six hundred	59789
twenty-five dollars per bed but exceeds six thousand eight hundred	59790
dollars per bed;	59791
(c) Four dollars and fifty cents per patient day if the cost	59792
of construction was six thousand eight hundred dollars or less per	59793
bed but exceeds five thousand one hundred fifty dollars per bed;	59794
(d) Three dollars and fifty cents per patient day if the cost	59795
of construction was five thousand one hundred fifty dollars or	59796
less but exceeds three thousand five hundred dollars per bed;	59797
(e) Two dollars and fifty cents per patient day if the cost	59798
of construction was three thousand five hundred dollars or less	59799
per bed.	59800
(6) For facilities with dates of licensure after December 31,	59801
1979, but prior to January 1, 1981, not exceeding:	59802
(a) Twelve dollars per patient day if the beds were	59803
originally licensed as residential facility beds by the department	59804
of mental retardation and developmental disabilities;	59805
(b) Six dollars per patient day if the beds were originally	59806
licensed as nursing home beds by the department of health.	59807
(7) For facilities with dates of licensure after December 31,	59808

1980, but prior to January 1, 1982, not exceeding:	59809
(a) Twelve dollars per patient day if the beds were	59810
originally licensed as residential facility beds by the department	59811
of mental retardation and developmental disabilities;	59812
(b) Six dollars and forty-five cents per patient day if the	59813
beds were originally licensed as nursing home beds by the	59814
department of health.	59815
(8) For facilities with dates of licensure after December 31,	59816
1981, but prior to January 1, 1983, not exceeding:	59817
(a) Twelve dollars per patient day if the beds were	59818
originally licensed as residential facility beds by the department	59819
of mental retardation and developmental disabilities;	59820
(b) Six dollars and seventy-nine cents per patient day if the	59821
beds were originally licensed as nursing home beds by the	59822
department of health.	59823
(9) For facilities with dates of licensure after December 31,	59824
1982, but prior to January 1, 1984, not exceeding:	59825
(a) Twelve dollars per patient day if the beds were	59826
originally licensed as residential facility beds by the department	59827
of mental retardation and developmental disabilities;	59828
(b) Seven dollars and nine cents per patient day if the beds	59829
were originally licensed as nursing home beds by the department of	59830
health.	59831
(10) For facilities with dates of licensure after December	59832
31, 1983, but prior to January 1, 1985, not exceeding:	59833
(a) Twelve dollars and twenty-four cents per patient day if	59834
the beds were originally licensed as residential facility beds by	59835
the department of mental retardation and developmental	59836
disabilities;	59837
(b) Seven dollars and twenty-three cents per patient day if	59838

the beds were originally licensed as nursing home beds by the 59839  
department of health. 59840

(11) For facilities with dates of licensure after December 59841  
31, 1984, but prior to January 1, 1986, not exceeding: 59842

(a) Twelve dollars and fifty-three cents per patient day if 59843  
the beds were originally licensed as residential facility beds by 59844  
the department of mental retardation and developmental 59845  
disabilities; 59846

(b) Seven dollars and forty cents per patient day if the beds 59847  
were originally licensed as nursing home beds by the department of 59848  
health. 59849

(12) For facilities with dates of licensure after December 59850  
31, 1985, but prior to January 1, 1987, not exceeding: 59851

(a) Twelve dollars and seventy cents per patient day if the 59852  
beds were originally licensed as residential facility beds by the 59853  
department of mental retardation and developmental disabilities; 59854

(b) Seven dollars and fifty cents per patient day if the beds 59855  
were originally licensed as nursing home beds by the department of 59856  
health. 59857

(13) For facilities with dates of licensure after December 59858  
31, 1986, but prior to January 1, 1988, not exceeding: 59859

(a) Twelve dollars and ninety-nine cents per patient day if 59860  
the beds were originally licensed as residential facility beds by 59861  
the department of mental retardation and developmental 59862  
disabilities; 59863

(b) Seven dollars and sixty-seven cents per patient day if 59864  
the beds were originally licensed as nursing home beds by the 59865  
department of health. 59866

(14) For facilities with dates of licensure after December 59867  
31, 1987, but prior to January 1, 1989, not exceeding thirteen 59868



dollars and twenty-six cents per patient day;	59869
(15) For facilities with dates of licensure after December 31, 1988, but prior to January 1, 1990, not exceeding thirteen dollars and forty-six cents per patient day;	59870 59871 59872
(16) For facilities with dates of licensure after December 31, 1989, but prior to January 1, 1991, not exceeding thirteen dollars and sixty cents per patient day;	59873 59874 59875
(17) For facilities with dates of licensure after December 31, 1990, but prior to January 1, 1992, not exceeding thirteen dollars and forty-nine cents per patient day;	59876 59877 59878
(18) For facilities with dates of licensure after December 31, 1991, but prior to January 1, 1993, not exceeding thirteen dollars and sixty-seven cents per patient day;	59879 59880 59881
(19) For facilities with dates of licensure after December 31, 1992, not exceeding fourteen dollars and twenty-eight cents per patient day.	59882 59883 59884
(D) Beginning January 1, 1981, regardless of the original date of licensure, the department of job and family services shall pay a rate for the per diem capitalized costs of renovations to intermediate care facilities for the mentally retarded made after January 1, 1981, not exceeding six dollars per patient day using 1980 as the base year and adjusting the amount annually until June 30, 1993, for fluctuations in construction costs calculated by the department using the "Dodge building cost indexes, northeastern and north central states," published by Marshall and Swift. The payment provided for in this division is the only payment that shall be made for the capitalized costs of a nonextensive renovation of an intermediate care facility for the mentally retarded. Nonextensive renovation costs shall not be included in cost of ownership, and a nonextensive renovation shall not affect the date of licensure for purposes of division (C) of this	59885 59886 59887 59888 59889 59890 59891 59892 59893 59894 59895 59896 59897 59898 59899

section. This division applies to nonextensive renovations 59900  
regardless of whether they are made by an owner or a lessee. If 59901  
the tenancy of a lessee that has made renovations ends before the 59902  
depreciation expense for the renovation costs has been fully 59903  
reported, the former lessee shall not report the undepreciated 59904  
balance as an expense. 59905

For a nonextensive renovation to qualify for payment under 59906  
this division, both of the following conditions must be met: 59907

(1) At least five years have elapsed since the date of 59908  
licensure or date of an extensive renovation of the portion of the 59909  
facility that is proposed to be renovated, except that this 59910  
condition does not apply if the renovation is necessary to meet 59911  
the requirements of federal, state, or local statutes, ordinances, 59912  
rules, or policies. 59913

(2) The provider has obtained prior approval from the 59914  
department of job and family services. The provider shall submit a 59915  
plan that describes in detail the changes in capital assets to be 59916  
accomplished by means of the renovation and the timetable for 59917  
completing the project. The time for completion of the project 59918  
shall be no more than eighteen months after the renovation begins. 59919  
The director of job and family services shall adopt rules in 59920  
accordance with Chapter 119. of the Revised Code that specify 59921  
criteria and procedures for prior approval of renovation projects. 59922  
No provider shall separate a project with the intent to evade the 59923  
characterization of the project as a renovation or as an extensive 59924  
renovation. No provider shall increase the scope of a project 59925  
after it is approved by the department of job and family services 59926  
unless the increase in scope is approved by the department. 59927

(E) The amounts specified in divisions (C) and (D) of this 59928  
section shall be adjusted beginning July 1, 1993, for the 59929  
estimated inflation for the twelve-month period beginning on the 59930  
first day of July of the calendar year preceding the calendar year 59931

that precedes the fiscal year for which rate will be paid and 59932  
ending on the thirtieth day of the following June, using the 59933  
consumer price index for shelter costs for all urban consumers for 59934  
the north central region, as published by the United States bureau 59935  
of labor statistics. 59936

(F)(1) For facilities of eight or fewer beds that have dates 59937  
of licensure or have been granted project authorization by the 59938  
department of mental retardation and developmental disabilities 59939  
before July 1, 1993, and for facilities of eight or fewer beds 59940  
that have dates of licensure or have been granted project 59941  
authorization after that date if the facilities demonstrate that 59942  
they made substantial commitments of funds on or before that date, 59943  
cost of ownership shall not exceed eighteen dollars and thirty 59944  
cents per resident per day. The eighteen-dollar and thirty-cent 59945  
amount shall be increased by the change in the "Dodge building 59946  
cost indexes, northeastern and north central states," published by 59947  
Marshall and Swift, during the period beginning June 30, 1990, and 59948  
ending July 1, 1993, and by the change in the consumer price index 59949  
for shelter costs for all urban consumers for the north central 59950  
region, as published by the United States bureau of labor 59951  
statistics, annually thereafter. 59952

(2) For facilities with eight or fewer beds that have dates 59953  
of licensure or have been granted project authorization by the 59954  
department of mental retardation and developmental disabilities on 59955  
or after July 1, 1993, for which substantial commitments of funds 59956  
were not made before that date, cost of ownership payments shall 59957  
not exceed the applicable amount calculated under division (F)(1) 59958  
of this section, if the department of job and family services 59959  
gives prior approval for construction of the facility or, 59960  
regardless of whether the department gives prior approval, if the 59961  
facility obtains a residential facility license under section 59962  
5123.19 of the Revised Code pursuant to section 5123.1910 of the 59963

Revised Code. If the department does not give prior approval, cost 59964  
of ownership payments shall not exceed the amount specified in 59965  
division (C) of this section unless the facility obtains a 59966  
residential facility license under section 5123.19 of the Revised 59967  
Code pursuant to section 5123.1910 of the Revised Code. 59968

(3) Notwithstanding divisions (D) and (F)(1) and (2) of this 59969  
section, the total payment for cost of ownership, cost of 59970  
ownership efficiency incentive, and capitalized costs of 59971  
renovations for an intermediate care facility for the mentally 59972  
retarded with eight or fewer beds shall not exceed the sum of the 59973  
limitations specified in divisions (C) and (D) of this section. 59974

(G) Notwithstanding any provision of this section or section 59975  
5111.24 of the Revised Code, the director of job and family 59976  
services may adopt rules in accordance with Chapter 119. of the 59977  
Revised Code that provide for a calculation of a combined maximum 59978  
payment limit for indirect care costs and cost of ownership for 59979  
intermediate care facilities for the mentally retarded with eight 59980  
or fewer beds. 59981

(H) After June 30, 1980, the owner of an intermediate care 59982  
facility for the mentally retarded operating under a provider 59983  
agreement shall provide written notice to the department of job 59984  
and family services at least forty-five days prior to entering 59985  
into any contract of sale for the facility or voluntarily 59986  
terminating participation in the medical assistance program. After 59987  
the date on which a transaction of sale is closed, the owner shall 59988  
refund to the department the amount of excess depreciation paid to 59989  
the facility by the department for each year the owner has 59990  
operated the facility under a provider agreement and prorated 59991  
according to the number of medicaid patient days for which the 59992  
facility has received payment. If an intermediate care facility 59993  
for the mentally retarded is sold after five or fewer years of 59994  
operation under a provider agreement, the refund to the department 59995

shall be equal to the excess depreciation paid to the facility. If 59996  
an intermediate care facility for the mentally retarded is sold 59997  
after more than five years but less than ten years of operation 59998  
under a provider agreement, the refund to the department shall 59999  
equal the excess depreciation paid to the facility multiplied by 60000  
twenty per cent, multiplied by the number of years less than ten 60001  
that a facility was operated under a provider agreement. If an 60002  
intermediate care facility for the mentally retarded is sold after 60003  
ten or more years of operation under a provider agreement, the 60004  
owner shall not refund any excess depreciation to the department. 60005  
For the purposes of this division, "depreciation paid to the 60006  
facility" means the amount paid to the intermediate care facility 60007  
for the mentally retarded for cost of ownership pursuant to this 60008  
section less any amount paid for interest costs. For the purposes 60009  
of this division, "excess depreciation" is the intermediate care 60010  
facility for the mentally retarded's depreciated basis, which is 60011  
the owner's cost less accumulated depreciation, subtracted from 60012  
the purchase price but not exceeding the amount of depreciation 60013  
paid to the facility. 60014

A cost report shall be filed with the department within 60015  
ninety days after the date on which the transaction of sale is 60016  
closed or participation is voluntarily terminated for an 60017  
intermediate care facility for the mentally retarded subject to 60018  
this division. The report shall show the accumulated depreciation, 60019  
the sales price, and other information required by the department. 60020  
The department shall provide for a bank, trust company, or savings 60021  
and loan association to hold in escrow the amount of the last two 60022  
monthly payments to an intermediate care facility for the mentally 60023  
retarded made pursuant to division (A)(1) of section 5111.22 of 60024  
the Revised Code before a sale or voluntary termination of 60025  
participation or, if the owner fails, within the time required by 60026  
this division, to notify the department before entering into a 60027  
contract of sale for the facility, the amount of the first two 60028

monthly payments made to the facility after the department learns 60029  
of the contract, regardless of whether a new owner is in 60030  
possession of the facility. If the amount the owner will be 60031  
required to refund under this section is likely to be less than 60032  
the amount of the two monthly payments otherwise put into escrow 60033  
under this division, the department shall take one of the 60034  
following actions instead of withholding the amount of the two 60035  
monthly payments: 60036

(1) In the case of an owner that owns other facilities that 60037  
participate in the medical assistance program, obtain a promissory 60038  
note in an amount sufficient to cover the amount likely to be 60039  
refunded; 60040

(2) In the case of all other owners, withhold the amount of 60041  
the last monthly payment to the intermediate care facility for the 60042  
mentally retarded or, if the owner fails, within the time required 60043  
by this division, to notify the department before entering into a 60044  
contract of sale for the facility, the amount of the first monthly 60045  
payment made to the facility after the department learns of the 60046  
contract, regardless of whether a new owner is in possession of 60047  
the facility. 60048

The department shall, within ninety days following the filing 60049  
of the cost report, audit the report and issue an audit report to 60050  
the owner. The department also may audit any other cost reports 60051  
for the facility that have been filed during the previous three 60052  
years. In the audit report, the department shall state its 60053  
findings and the amount of any money owed to the department by the 60054  
intermediate care facility for the mentally retarded. The findings 60055  
shall be subject to an adjudication conducted in accordance with 60056  
Chapter 119. of the Revised Code. No later than fifteen days after 60057  
the owner agrees to a settlement, any funds held in escrow less 60058  
any amounts due to the department shall be released to the owner 60059  
and amounts due to the department shall be paid to the department. 60060

If the amounts in escrow are less than the amounts due to the department, the balance shall be paid to the department within fifteen days after the owner agrees to a settlement. If the department does not issue its audit report within the ninety-day period, the department shall release any money held in escrow to the owner. For the purposes of this section, a transfer of corporate stock, the merger of one corporation into another, or a consolidation does not constitute a sale.

If an intermediate care facility for the mentally retarded is not sold or its participation is not terminated after notice is provided to the department under this division, the department shall order any payments held in escrow released to the facility upon receiving written notice from the owner that there will be no sale or termination of participation. After written notice is received from an intermediate care facility for the mentally retarded that a sale or termination of participation will not take place, the facility shall provide notice to the department at least forty-five days prior to entering into any contract of sale or terminating participation at any future time.

(I) The department of job and family services shall pay each eligible proprietary intermediate care facility for the mentally retarded a return on the facility's net equity computed at the rate of one and one-half times the average of interest rates on special issues of public debt obligations issued to the federal hospital insurance trust fund for the cost reporting period. No facility's return on net equity paid under this division shall exceed one dollar per patient day.

In calculating the rate for return on net equity, the department shall use the greater of the facility's inpatient days during the applicable cost reporting period or the number of inpatient days the facility would have had during that period if its occupancy rate had been ninety-five per cent.

(J)(1) Except as provided in division (J)(2) of this section, 60093  
if a provider leases or transfers an interest in a facility to 60094  
another provider who is a related party, the related party's 60095  
allowable cost of ownership shall include the lesser of the 60096  
following: 60097

(a) The annual lease expense or actual cost of ownership, 60098  
whichever is applicable; 60099

(b) The reasonable cost to the lessor or provider making the 60100  
transfer. 60101

(2) If a provider leases or transfers an interest in a 60102  
facility to another provider who is a related party, regardless of 60103  
the date of the lease or transfer, the related party's allowable 60104  
cost of ownership shall include the annual lease expense or actual 60105  
cost of ownership, whichever is applicable, subject to the 60106  
limitations specified in divisions (B) to (I) of this section, if 60107  
all of the following conditions are met: 60108

(a) The related party is a relative of owner; 60109

(b) In the case of a lease, if the lessor retains any 60110  
ownership interest, it is, except as provided in division 60111  
(J)(2)(d)(ii) of this section, in only the real property and any 60112  
improvements on the real property; 60113

(c) In the case of a transfer, the provider making the 60114  
transfer retains, except as provided in division (J)(2)(d)(iv) of 60115  
this section, no ownership interest in the facility; 60116

(d) The department of job and family services determines that 60117  
the lease or transfer is an arm's length transaction pursuant to 60118  
rules the department shall adopt in accordance with Chapter 119. 60119  
of the Revised Code no later than December 31, 2000. The rules 60120  
shall provide that a lease or transfer is an arm's length 60121  
transaction if all of the following, as applicable, apply: 60122



(i) In the case of a lease, once the lease goes into effect, 60123  
the lessor has no direct or indirect interest in the lessee or, 60124  
except as provided in division (J)(2)(b) of this section, the 60125  
facility itself, including interest as an owner, officer, 60126  
director, employee, independent contractor, or consultant, but 60127  
excluding interest as a lessor. 60128

(ii) In the case of a lease, the lessor does not reacquire an 60129  
interest in the facility except through the exercise of a lessor's 60130  
rights in the event of a default. If the lessor reacquires an 60131  
interest in the facility in this manner, the department shall 60132  
treat the facility as if the lease never occurred when the 60133  
department calculates its reimbursement rates for capital costs. 60134

(iii) In the case of a transfer, once the transfer goes into 60135  
effect, the provider that made the transfer has no direct or 60136  
indirect interest in the provider that acquires the facility or 60137  
the facility itself, including interest as an owner, officer, 60138  
director, employee, independent contractor, or consultant, but 60139  
excluding interest as a creditor. 60140

(iv) In the case of a transfer, the provider that made the 60141  
transfer does not reacquire an interest in the facility except 60142  
through the exercise of a creditor's rights in the event of a 60143  
default. If the provider reacquires an interest in the facility in 60144  
this manner, the department shall treat the facility as if the 60145  
transfer never occurred when the department calculates its 60146  
reimbursement rates for capital costs. 60147

(v) The lease or transfer satisfies any other criteria 60148  
specified in the rules. 60149

(e) Except in the case of hardship caused by a catastrophic 60150  
event, as determined by the department, or in the case of a lessor 60151  
or provider making the transfer who is at least sixty-five years 60152  
of age, not less than twenty years have elapsed since, for the 60153

same facility, allowable cost of ownership was determined most 60154  
recently under this division. 60155

**Sec. 5111.34.** (A) There is hereby created the nursing 60156  
facility reimbursement study council consisting of the following 60157  
~~seventeen~~ eighteen members: 60158

(1) The director of job and family services; 60159

(2) The deputy director of the office of Ohio health plans of 60160  
the department of job and family services; 60161

(3) An employee of the governor's office; 60162

(4) The director of health; 60163

(5) The director of aging; 60164

(6) Three members of the house of representatives, not more 60165  
than two of whom are members of the same political party, 60166  
appointed by the speaker of the house of representatives; 60167

(7) Three members of the senate, not more than two of whom 60168  
are members of the same political party, appointed by the 60169  
president of the senate; 60170

(8) One representative of medicaid recipients residing in 60171  
nursing facilities, appointed by the governor; 60172

(9) Two representatives of each of the following 60173  
organizations, appointed by their respective governing bodies: 60174

(a) The Ohio academy of nursing homes; 60175

(b) The association of Ohio philanthropic homes and housing 60176  
for the aging; 60177

(c) The Ohio health care association. 60178

Initial appointments of members described in divisions 60179  
(A)(6), (7), and ~~(8)~~(9) of this section shall be made no later 60180  
than ninety days after June 6, 2001, except that the initial 60181

appointments of the two additional members described in divisions 60182  
(A)(6) and (7) of this section added by Am. Sub. H.B. 405 of the 60183  
124th general assembly shall be made not later than ninety days 60184  
after ~~the effective date of this amendment~~ March 14, 2002. Initial 60185  
appointment of the member described in division (A)(8) of this 60186  
section shall be made not later than ninety days after the 60187  
effective date of this amendment. Vacancies in any of those 60188  
appointments shall be filled in the same manner as original 60189  
appointments. The members described in divisions (A)(6), (7), ~~and~~ 60190  
(8), and (9) of this section shall serve at the pleasure of the 60191  
official or governing body appointing the member. The members 60192  
described in divisions (A)(1), (2), (3), (4), and (5) of this 60193  
section shall serve for as long as they hold the position that 60194  
qualifies them for membership on the council. The speaker of the 60195  
house of representatives and the president of the senate jointly 60196  
shall appoint the chairperson of the council. Members of the 60197  
council shall serve without compensation. 60198

(B) The council shall review, on an ongoing basis, the system 60199  
established by sections 5111.20 to 5111.32 of the Revised Code for 60200  
reimbursing nursing facilities under the medical assistance 60201  
program. The council shall recommend any changes it determines are 60202  
necessary. The council shall issue a report of its activities, 60203  
findings, and recommendations to the governor, the speaker of the 60204  
house of representatives, and the president of the senate not 60205  
later than July 30, 2004. Thereafter, the council periodically 60206  
shall report its activities, findings, and recommendations to the 60207  
governor, the speaker of the house of representatives, and the 60208  
president of the senate. 60209

(C) The council shall meet quarterly. Its first quarterly 60210  
meeting after the effective date of this amendment shall be held 60211  
not later than August 1, 2003. 60212

Sec. 5111.85. (A) As used in this section, "medicaid waiver component" means a component of the medicaid program authorized by a waiver granted by the United States department of health and human services under section 1115 or 1915 of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 1315 or 1396n. "Medicaid waiver component" does not include a ~~managed~~ care management system established under section ~~5111.17~~ 5111.16 of the Revised Code.

(B) The director of job and family services may adopt rules under Chapter 119. of the Revised Code governing medicaid waiver components that establish all of the following:

(1) Eligibility requirements for the medicaid waiver components;

(2) The type, amount, duration, and scope of services the medicaid waiver components provide;

(3) The conditions under which the medicaid waiver components cover services;

(4) The amount the medicaid waiver components pay for services or the method by which the amount is determined;

(5) The manner in which the medicaid waiver components pay for services;

(6) Safeguards for the health and welfare of medicaid recipients receiving services under a medicaid waiver component;

(7) Procedures for enforcing the rules, including establishing corrective action plans for, and imposing financial and administrative sanctions on, persons and government entities that violate the rules. Sanctions shall include terminating medicaid provider agreements. The procedures shall include due process protections.

(8) Other policies necessary for the efficient administration of the medicaid waiver components. 60242  
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(C) The director of job and family services may adopt different rules for the different medicaid waiver components. The rules shall be consistent with the terms of the waiver authorizing the medicaid waiver component. 60244  
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(D) The director of job and family services may conduct reviews of the medicaid waiver components. The reviews may include physical inspections of records and sites where services are provided under the medicaid waiver components and interviews of providers and recipients of the services. If the director determines pursuant to a review that a person or government entity has violated a rule governing a medicaid waiver component, the director may establish a corrective action plan for the violator and impose fiscal, administrative, or both types of sanctions on the violator in accordance with rules adopted under division (B) of this section. 60248  
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**Sec. 5111.87.** (A) As used in this section and section 5111.871 of the Revised Code, "intermediate care facility for the mentally retarded" has the same meaning as in section 5111.20 of the Revised Code. 60259  
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(B) The director of job and family services may apply to the United States secretary of health and human services for ~~one~~ both of the following: 60263  
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(1) One or more medicaid waivers under which home and community-based services are provided to individuals with mental retardation or other developmental disability as an alternative to placement in an intermediate care facility for the mentally retarded; 60266  
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(2) One or more medicaid waivers that operate for three to 60271

<u>four years each and under which home and community-based services</u>	60272
<u>are provided in the form of either or both of the following:</u>	60273
<u>(a) Early intervention services for children under three</u>	60274
<u>years of age that are provided or arranged by county boards of</u>	60275
<u>mental retardation and developmental disabilities;</u>	60276
<u>(b) Therapeutic services for children who have autism and are</u>	60277
<u>under six years of age at the time of enrollment. Before the</u>	60278
<u>director applies</u>	60279
<u>(C) No individual may receive services under an autism</u>	60280
<u>component of the medicaid program established under a waiver</u>	60281
<u>sought under division (B)(2)(b) of this section for more than</u>	60282
<u>three years. An individual receiving intensive therapeutic</u>	60283
<u>services under such an autism component is forever ineligible to</u>	60284
<u>receive intensive therapeutic services, under any other component</u>	60285
<u>of the medicaid program.</u>	60286
<u>(D) The director of mental retardation and developmental</u>	60287
<u>disabilities may request that the director of job and family</u>	60288
<u>services apply for one or more medicaid waivers under this</u>	60289
<u>section.</u>	60290
<u>(E) Before applying for a waiver under this section, the</u>	60291
<u>director of job and family services shall seek, accept, and</u>	60292
<u>consider public comments.</u>	60293
<b>Sec. 5111.871.</b> The department of job and family services	60294
shall enter into a contract with the department of mental	60295
retardation and developmental disabilities under section 5111.91	60296
of the Revised Code with regard to <u>one or more of the component</u>	60297
<u>components</u> of the medicaid program established by the department	60298
of job and family services under one or more <u>of the medicaid</u>	60299
<u>wavers from the United States secretary of health and human</u>	60300
<u>services pursuant to section 1915 of the "Social Security Act," 49</u>	60301

Stat. 620 (1935), 42 U.S.C.A. 1396n, as amended, to provide 60302  
eligible medicaid recipients with home and community based 60303  
services as an alternative to placement in an intermediate care 60304  
facility for the mentally retarded sought under section 5111.87 of 60305  
the Revised Code. The contract shall provide for the department of 60306  
mental retardation and developmental disabilities to administer 60307  
the ~~component~~ components in accordance with the terms of the 60308  
~~waiver~~ waivers. The directors of job and family services and 60309  
mental retardation and developmental disabilities shall adopt 60310  
rules in accordance with Chapter 119. of the Revised Code 60311  
governing the ~~component~~ components. 60312

If the department of mental retardation and developmental 60313  
disabilities or the department of job and family services denies 60314  
an individual's application for home and community-based services 60315  
provided under ~~this~~ any of these medicaid ~~component~~ components, 60316  
the department that denied the services shall give timely notice 60317  
to the individual that the individual may request a hearing under 60318  
section 5101.35 of the Revised Code. 60319

The departments of mental retardation and developmental 60320  
disabilities and job and family services may approve, reduce, 60321  
deny, or terminate a service included in the individualized 60322  
service plan developed for a medicaid recipient eligible for home 60323  
and community-based services provided under ~~this~~ any of these 60324  
medicaid ~~component~~ components. The departments shall consider the 60325  
recommendations a county board of mental retardation and 60326  
developmental disabilities makes under division (A)(1)(c) of 60327  
section 5126.055 of the Revised Code. If either department 60328  
approves, reduces, denies, or terminates a service, that 60329  
department shall give timely notice to the medicaid recipient that 60330  
the recipient may request a hearing under section 5101.35 of the 60331  
Revised Code. 60332

If supported living or residential services, as defined in 60333

section 5126.01 of the Revised Code, are to be provided under ~~this~~ 60334  
~~component~~ any of these components, any person or government entity 60335  
with a current, valid medicaid provider agreement and a current, 60336  
valid license under section 5123.19 or certificate under section 60337  
5123.045 or 5126.431 of the Revised Code may provide the services. 60338

**Sec. 5111.872.** When the department of mental retardation and 60339  
developmental disabilities allocates enrollment numbers to a 60340  
county board of mental retardation and developmental disabilities 60341  
for home and community-based services specified in division (B)(1) 60342  
of section 5111.87 of the Revised Code and provided under any of 60343  
the ~~component~~ components of the medicaid program that the 60344  
department administers under section 5111.871 of the Revised Code, 60345  
the department shall consider all of the following: 60346

(A) The number of individuals with mental retardation or 60347  
other developmental disability who are on a waiting list the 60348  
county board establishes under division (C) of section 5126.042 of 60349  
the Revised Code for those services and are given priority on the 60350  
waiting list pursuant to division (D) or (E) of that section; 60351

(B) The implementation component required by division (A)(4) 60352  
of section 5126.054 of the Revised Code of the county board's plan 60353  
approved under section 5123.046 of the Revised Code; 60354

(C) Anything else the department considers necessary to 60355  
enable county boards to provide those services to individuals in 60356  
accordance with the priority requirements of ~~division~~ divisions 60357  
(D) and (E) of section 5126.042 of the Revised Code. 60358

**Sec. 5111.873.** (A) Not later than the effective date of the 60359  
first of any medicaid waivers the United States secretary of 60360  
health and human services grants pursuant to a request made under 60361  
section 5111.87 of the Revised Code, the director of job and 60362  
family services shall adopt rules in accordance with Chapter 119. 60363



of the Revised Code establishing statewide fee schedules for home 60364  
and community-based services specified in division (B)(1) of 60365  
section 5111.87 of the Revised Code and provided under the 60366  
~~element~~ components of the medicaid program that the department 60367  
of mental retardation and developmental disabilities administers 60368  
under section 5111.871 of the Revised Code. The rules shall 60369  
provide for all of the following: 60370

(1) The department of mental retardation and developmental 60371  
disabilities arranging for the initial and ongoing collection of 60372  
cost information from a comprehensive, statistically valid sample 60373  
of persons and government entities providing the services at the 60374  
time the information is obtained; 60375

(2) The collection of consumer-specific information through 60376  
an assessment instrument the department of mental retardation and 60377  
developmental disabilities shall provide to the department of job 60378  
and family services; 60379

(3) With the information collected pursuant to divisions 60380  
(A)(1) and (2) of this section, an analysis of that information, 60381  
and other information the director determines relevant, methods 60382  
and standards for calculating the fee schedules that do all of the 60383  
following: 60384

(a) Assure that the fees are consistent with efficiency, 60385  
economy, and quality of care; 60386

(b) Consider the intensity of consumer resource need; 60387

(c) Recognize variations in different geographic areas 60388  
regarding the resources necessary to assure the health and welfare 60389  
of consumers; 60390

(d) Recognize variations in environmental supports available 60391  
to consumers. 60392

(B) As part of the process of adopting rules under this 60393

section, the director shall consult with the director of mental 60394  
retardation and developmental disabilities, representatives of 60395  
county boards of mental retardation and developmental 60396  
disabilities, persons who provide the home and community-based 60397  
services, and other persons and government entities the director 60398  
identifies. 60399

(C) The directors of job and family services and mental 60400  
retardation and developmental disabilities shall review the rules 60401  
adopted under this section at times they determine to ensure that 60402  
the methods and standards established by the rules for calculating 60403  
the fee schedules continue to do everything that division (A)(3) 60404  
of this section requires. 60405

Sec. 5111.88. (A) As used in this section, "nursing facility" 60406  
has the same meaning as in section 5111.20 of the Revised Code. 60407

(B) To the extent funds are available, the director of job 60408  
and family services may establish the Ohio access success project 60409  
to help medicaid recipients make the transition from residing in a 60410  
nursing facility to residing in a community setting. The program 60411  
may be established as a separate non-medicaid program or 60412  
integrated into a new or existing program of medicaid-funded home 60413  
and community-based services authorized by a waiver approved by 60414  
the United States department of health and human services. The 60415  
department may limit the number of program participants. 60416

To be eligible for benefits under the project, a medicaid 60417  
recipient must satisfy all of the following requirements: 60418

(1) Be a recipient of medicaid-funded nursing facility 60419  
services, at the time of applying for the benefits; 60420

(2) Have resided continuously in a nursing facility for not 60421  
less than eighteen months prior to applying to participate in the 60422  
project; 60423

<u>(3) Need the level of care provided by nursing facilities;</u>	60424
<u>(4) For participation in a non-medicaid program, receive</u>	60425
<u>services to remain in the community with a projected cost not</u>	60426
<u>exceeding eighty per cent of the average monthly medicaid cost of</u>	60427
<u>a medicaid recipient in a nursing facility;</u>	60428
<u>(5) For participation in a program established as part of a</u>	60429
<u>medicaid-funded home and community-based services waiver program,</u>	60430
<u>meet waiver enrollment criteria.</u>	60431
<u>(C) If the director establishes the Ohio access success</u>	60432
<u>project, the benefits provided under the project may include</u>	60433
<u>payment of all of the following:</u>	60434
<u>(1) The first month's rent in a community setting;</u>	60435
<u>(2) Rental deposits;</u>	60436
<u>(3) Utility deposits;</u>	60437
<u>(4) Moving expenses;</u>	60438
<u>(5) Other expenses not covered by the medicaid program that</u>	60439
<u>facilitate a medicaid recipient's move from a nursing facility to</u>	60440
<u>a community setting.</u>	60441
<u>(D) If the project is established as a non-medicaid program,</u>	60442
<u>no participant may receive more than two thousand dollars worth of</u>	60443
<u>benefits under the project.</u>	60444
<u>(E) The director may submit a request to the United States</u>	60445
<u>secretary of health and human services pursuant to section 1915 of</u>	60446
<u>the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1396n,</u>	60447
<u>as amended, to create a medicaid home and community-based services</u>	60448
<u>waiver program to serve individuals who meet the criteria for</u>	60449
<u>participation in the Ohio access success project. The director may</u>	60450
<u>adopt rules under Chapter 119. of the Revised Code for the</u>	60451
<u>administration and operation of the program.</u>	60452

Sec. 5111.911. Any contract the department of job and family services enters into with the department of mental health or department of alcohol and drug addiction services under section 5111.91 of the Revised Code is subject to the approval of the director of budget and management and shall require or specify all of the following: 60453  
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(A) In the case of a contract with the department of mental health, that section 5111.912 of the Revised Code be complied with; 60459  
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(B) In the case of a contract with the department of alcohol and drug addiction services, that section 5111.913 of the Revised Code be complied with; 60462  
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(C) How providers will be paid for providing the services; 60465

(D) The department of mental health's or department of alcohol and drug addiction services' responsibilities for reimbursing providers, including program oversight and quality assurance. 60466  
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Sec. 5111.912. If the department of job and family services enters into a contract with the department of mental health under section 5111.91 of the Revised Code, the department of mental health and boards of alcohol, drug addiction, and mental health services shall pay the nonfederal share of any medicaid payment to a provider for services under the component, or aspect of the component, the department of mental health administers. 60470  
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Sec. 5111.913. If the department of job and family services enters into a contract with the department of alcohol and drug addiction services under section 5111.91 of the Revised Code, the department of alcohol and drug addiction services and boards of alcohol, drug addiction, and mental health services shall pay the 60477  
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nonfederal share of any medicaid payment to a provider for 60482  
services under the component, or aspect of the component, the 60483  
department of alcohol and drug addiction services administers. 60484

**Sec. 5111.92.** (A)(1) Except as provided in division (B) of 60485  
this section, if a state agency or political subdivision 60486  
administers one or more components of the medicaid program that 60487  
the United States department of health and human services 60488  
approved, and for which federal financial participation was 60489  
initially obtained, prior to January 1, 2002, or administers one 60490  
or more aspects of such a component, the department of job and 60491  
family services may retain or collect not more than ten per cent 60492  
of the federal financial participation the state agency or 60493  
political subdivision obtains through an approved, administrative 60494  
claim regarding the component or aspect of the component. If the 60495  
department retains or collects a percentage of such federal 60496  
financial participation, the percentage the department retains or 60497  
collects shall be specified in a contract the department enters 60498  
into with the state agency or political subdivision under section 60499  
5111.91 of the Revised Code. 60500

(2) Except as provided in division (B) of this section, if a 60501  
state agency or political subdivision administers one or more 60502  
components of the medicaid program that the United States 60503  
department of health and human services approved on or after 60504  
January 1, 2002, or administers one or more aspects of such a 60505  
component, the department of job and family services shall retain 60506  
or collect not less than three and not more than ten per cent of 60507  
the federal financial participation the state agency or political 60508  
subdivision obtains through an approved, administrative claim 60509  
regarding the component or aspect of the component. The percentage 60510  
the department retains or collects shall be specified in a 60511  
contract the department enters into with the state agency or 60512  
political subdivision under section 5111.91 of the Revised Code. 60513

(B) The department of job and family services may retain or 60514  
collect a percentage of federal financial participation under 60515  
divisions (A)(1) and (2) of this section only to the extent 60516  
permitted by federal statutes and regulations and shall not retain 60517  
or collect a percentage of federal financial participation 60518  
obtained pursuant to section 5126.058 of the Revised Code. 60519

(C) All amounts the department retains or collects under this 60520  
section shall be deposited into the health care services 60521  
administration fund created under section 5111.94 of the Revised 60522  
Code. 60523

**Sec. 5111.94.** (A) As used in this section, "vendor offset" 60524  
means a reduction of a medicaid payment to a medicaid provider to 60525  
correct a previous, incorrect medicaid payment to that provider. 60526

(B) There is hereby created in the state treasury the health 60527  
care services administration fund. Except as provided in division 60528  
(C) of this section, all the following shall be deposited into the 60529  
fund: 60530

(1) Amounts deposited into the fund pursuant to sections 60531  
5111.92 and 5111.93 of the Revised Code; 60532

(2) The amount of the state share of all money the department 60533  
of job and family services, in fiscal year 2003 and each fiscal 60534  
year thereafter, recovers pursuant to a tort action under the 60535  
department's right of recovery under section 5101.58 of the 60536  
Revised Code that exceeds the state share of all money the 60537  
department, in fiscal year 2002, recovers pursuant to a tort 60538  
action under that right of recovery; 60539

(3) Subject to division (D) of this section, the amount of 60540  
the state share of all money the department of job and family 60541  
services, in fiscal year 2003 and each fiscal year thereafter, 60542  
recovers through audits of medicaid providers that exceeds the 60543

state share of all money the department, in fiscal year 2002, 60544  
recovers through such audits; 60545

(4) ~~Until October 16, 2003, amounts~~ Amounts from assessments 60546  
on hospitals under section 5112.06 of the Revised Code and 60547  
intergovernmental transfers by governmental hospitals under 60548  
section 5112.07 of the Revised Code that are deposited into the 60549  
fund in accordance with the law. 60550

(C) No funds shall be deposited into the health care services 60551  
administration fund in violation of federal statutes or 60552  
regulations. 60553

(D) In determining under division (B)(3) of this section the 60554  
amount of money the department, in a fiscal year, recovers through 60555  
audits of medicaid providers, the amount recovered in the form of 60556  
vendor offset shall be excluded. 60557

(E) The director of job and family services shall use funds 60558  
available in the health care services administration fund to pay 60559  
for costs associated with the administration of the medicaid 60560  
program. 60561

**Sec. 5111.95.** (A) As used in this section: 60562

(1) "Applicant" means a person who is under final 60563  
consideration for employment or, after the effective date of this 60564  
section, an existing employee with a waiver agency in a full-time, 60565  
part-time, or temporary position that involves providing home and 60566  
community-based waiver services to a person with disabilities. 60567  
"Applicant" also means an existing employee with a waiver agency 60568  
in a full-time, part-time, or temporary position that involves 60569  
providing home and community-based waiver services to a person 60570  
with disabilities after the effective date of this section. 60571

(2) "Criminal records check" has the same meaning as in 60572  
section 109.572 of the Revised Code. 60573

(3) "Waiver agency" means a person or government entity that 60574  
is not certified under the medicare program and is accredited by 60575  
the community health accreditation program or the joint commission 60576  
on accreditation of health care organizations or a company that 60577  
provides home and community-based waiver services to persons with 60578  
disabilities through department of job and family services 60579  
administered home and community-based waiver programs. 60580

(4) "Home and community-based waiver services" means services 60581  
furnished under the provision of 42 C.F.R. 441, subpart G, that 60582  
permit individuals to live in a home setting rather than a nursing 60583  
facility or hospital. Home and community-based waiver services are 60584  
approved by the centers for medicare and medicaid for specific 60585  
populations and are not otherwise available under the medicaid 60586  
state plan. 60587

(B)(1) The chief administrator of a waiver agency shall 60588  
request that the superintendent of the bureau of criminal 60589  
identification and investigation conduct a criminal records check 60590  
with respect to each applicant. If an applicant for whom a 60591  
criminal records check request is required under this division 60592  
does not present proof of having been a resident of this state for 60593  
the five-year period immediately prior to the date the criminal 60594  
records check is requested or provide evidence that within that 60595  
five-year period the superintendent has requested information 60596  
about the applicant from the federal bureau of investigation in a 60597  
criminal records check, the chief administrator shall request that 60598  
the superintendent obtain information from the federal bureau of 60599  
investigation as part of the criminal records check of the 60600  
applicant. Even if an applicant for whom a criminal records check 60601  
request is required under this division presents proof of having 60602  
been a resident of this state for the five-year period, the chief 60603  
administrator may request that the superintendent include 60604  
information from the federal bureau of investigation in the 60605



criminal records check. 60606

(2) A person required by division (B)(1) of this section to request a criminal records check shall do both of the following: 60607  
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(a) Provide to each applicant for whom a criminal records check request is required under division (B)(1) of this section a copy of the form prescribed pursuant to division (C)(1) of section 109.572 of the Revised Code and a standard fingerprint impression sheet prescribed pursuant to division (C)(2) of that section, and obtain the completed form and impression sheet from the applicant; 60609  
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(b) Forward the completed form and impression sheet to the superintendent of the bureau of criminal identification and investigation. 60615  
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(3) An applicant provided the form and fingerprint impression sheet under division (B)(2)(a) of this section who fails to complete the form or provide fingerprint impressions shall not be employed in any position in a waiver agency for which a criminal records check is required by this section. 60618  
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(C)(1) Except as provided in rules adopted by the department of job and family services in accordance with division (F) of this section and subject to division (C)(2) of this section, no waiver agency shall employ a person in a position that involves providing home and community-based waiver services to persons with disabilities if the person has been convicted of or pleaded guilty to any of the following: 60623  
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(a) A violation of section 2903.01, 2903.02, 2903.03, 2903.04, 2903.041, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 2905.01, 2905.02, 2905.05, 2905.11, 2905.12, 2907.02, 2907.03, 2907.04, 2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 2907.23, 2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 2911.02, 2911.11, 2911.12, 2911.13, 2913.02, 2913.03, 2913.04, 2913.11, 2913.21, 2913.31, 2913.40, 60630  
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2913.43, 2913.47, 2913.51, 2919.12, 2919.24, 2919.25, 2921.36, 60637  
2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.04, 2925.05, 60638  
2925.06, 2925.11, 2925.13, 2925.22, 2925.23, or 3716.11 of the 60639  
Revised Code, felonious sexual penetration in violation of former 60640  
section 2907.12 of the Revised Code, a violation of section 60641  
2905.04 of the Revised Code as it existed prior to July 1, 1996, a 60642  
violation of section 2919.23 of the Revised Code that would have 60643  
been a violation of section 2905.04 of the Revised Code as it 60644  
existed prior to July 1, 1996, had the violation been committed 60645  
prior to that date; 60646

(b) An existing or former law of this state, any other state, 60647  
or the United States that is substantially equivalent to any of 60648  
the offenses listed in division (C)(1)(a) of this section. 60649

(2)(a) A waiver agency may employ conditionally an applicant 60650  
for whom a criminal records check request is required under 60651  
division (B) of this section prior to obtaining the results of a 60652  
criminal records check regarding the individual, provided that the 60653  
agency shall request a criminal records check regarding the 60654  
individual in accordance with division (B)(1) of this section not 60655  
later than five business days after the individual begins 60656  
conditional employment. 60657

(b) A waiver agency that employs an individual conditionally 60658  
under authority of division (C)(2)(a) of this section shall 60659  
terminate the individual's employment if the results of the 60660  
criminal records check request under division (B) of this section, 60661  
other than the results of any request for information from the 60662  
federal bureau of investigation, are not obtained within the 60663  
period ending sixty days after the date the request is made. 60664  
Regardless of when the results of the criminal records check are 60665  
obtained, if the results indicate that the individual has been 60666  
convicted of or pleaded guilty to any of the offenses listed or 60667  
described in division (C)(1) of this section, the agency shall 60668

terminate the individual's employment unless the agency chooses to 60669  
employ the individual pursuant to division (F) of this section. 60670  
Termination of employment under this division shall be considered 60671  
just cause for discharge for purposes of division (D)(2) of 60672  
section 4141.29 of the Revised Code if the individual makes any 60673  
attempt to deceive the agency about the individual's criminal 60674  
record. 60675

(D)(1) Each waiver agency shall pay to the bureau of criminal 60676  
identification and investigation the fee prescribed pursuant to 60677  
division (C)(3) of section 109.572 of the Revised Code for each 60678  
criminal records check conducted pursuant to a request made under 60679  
division (B) of this section. 60680

(2) A waiver agency may charge an applicant a fee not 60681  
exceeding the amount the agency pays under division (D)(1) of this 60682  
section. An agency may collect a fee only if the agency notifies 60683  
the person at the time of initial application for employment of 60684  
the amount of the fee and that, unless the fee is paid, the person 60685  
will not be considered for employment. 60686

(E) The report of any criminal records check conducted 60687  
pursuant to a request made under this section is not a public 60688  
record for the purposes of section 149.43 of the Revised Code and 60689  
shall not be made available to any person other than the 60690  
following: 60691

(1) The individual who is the subject of the criminal records 60692  
check or the individual's representative; 60693

(2) The chief administrator of the agency requesting the 60694  
criminal records check or the administrator's representative; 60695

(3) A court, hearing officer, or other necessary individual 60696  
involved in a case dealing with a denial of employment of the 60697  
applicant or dealing with employment or unemployment benefits of 60698  
the applicant. 60699

(F) The department shall adopt rules in accordance with Chapter 119. of the Revised Code to implement this section. The rules shall specify circumstances under which a waiver agency may employ a person who has been convicted of or pleaded guilty to an offense listed or described in division (C)(1) of this section but meets personal character standards set by the department. 60700  
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(G) The chief administrator of a waiver agency shall inform each person, at the time of initial application for a position that involves providing home and community-based waiver services to a person with a disability, that the person is required to provide a set of fingerprint impressions and that a criminal records check is required to be conducted if the person comes under final consideration for employment. 60706  
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(H)(1) A person who, on the effective date of this section, is an employee of a waiver agency in a full-time, part-time, or temporary position that involves providing home and community-based waiver services to a person with disabilities shall comply with this section within sixty days after the effective date of this section unless division (H)(2) of this section applies. 60713  
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(2) This section shall not apply to a person to whom all of the following apply: 60720  
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(a) On the effective date of this section, the person is an employee of a waiver agency in a full-time, part-time, or temporary position that involves providing home and community-based waiver services to a person with disabilities. 60722  
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(b) The person previously had been the subject of a criminal background check relating to that position; 60726  
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(c) The person has been continuously employed in that position since that criminal background check had been conducted. 60728  
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Sec. 5111.96. (A) As used in this section: 60730

(1) "Anniversary date" means the later of the effective date of the provider agreement relating to the independent provider or sixty days after the effective date of this section. 60731  
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(2) "Criminal records check" has the same meaning as in section 109.572 of the Revised Code. 60734  
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(3) "The department" means the department of job and family services or its designee. 60736  
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(4) "Independent provider" means a person who is submitting an application for a provider agreement or who has a provider agreement as an independent provider in a department of job and family services administered home and community-based services program providing home and community-based waiver services to consumers with disabilities. 60738  
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(5) "Home and community-based waiver services" has the same meaning as in section 5111.95 of the Revised Code. 60744  
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(B)(1) The department shall inform each independent provider, at the time of initial application for a provider agreement that involves providing home and community-based waiver services to consumers with disabilities, that the independent provider is required to provide a set of fingerprint impressions and that a criminal records check is required to be conducted if the person is to become an independent provider in a department administered home and community-based waiver program. 60746  
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(2) Beginning on the effective date of this section, the department shall inform each enrolled medicaid independent provider on or before time of the anniversary date of the provider agreement that involves providing home and community-based waiver services to consumers with disabilities that the independent provider is required to provide a set of fingerprint impressions 60754  
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and that a criminal records check is required to be conducted. 60760

(C)(1) The department shall require the independent provider 60761  
to complete a criminal records check prior to entering into a 60762  
provider agreement with the independent provider and at least 60763  
annually thereafter. If an independent provider for whom a 60764  
criminal records check is required under this division does not 60765  
present proof of having been a resident of this state for the 60766  
five-year period immediately prior to the date the criminal 60767  
records check is requested or provide evidence that within that 60768  
five-year period the superintendent has requested information 60769  
about the applicant from the federal bureau of investigation in a 60770  
criminal records check, the department shall request the 60771  
independent provider obtain through the superintendent a criminal 60772  
records request from the federal bureau of investigation as part 60773  
of the criminal records check of the independent provider. Even if 60774  
an independent provider for whom a criminal records check request 60775  
is required under this division presents proof of having been a 60776  
resident of this state for the five-year period, the department 60777  
may request that the independent provider obtain information 60778  
through the superintendent from the federal bureau of 60779  
investigation in the criminal records check. 60780

(2) The department shall do both of the following: 60781

(a) Provide information to each independent provider for whom 60782  
a criminal records check request is required under division (C)(1) 60783  
of this section about requesting a copy of the form prescribed 60784  
pursuant to division (C)(1) of section 109.572 of the Revised Code 60785  
and a standard fingerprint impression sheet prescribed pursuant to 60786  
division (C)(2) of that section, and obtain the completed form and 60787  
impression sheet and fee from the independent provider; 60788

(b) Forward the completed form, impression sheet, and fee to 60789  
the superintendent of the bureau of criminal identification and 60790  
investigation. 60791

(3) An independent provider given information about obtaining the form and fingerprint impression sheet under division (C)(2)(a) of this section who fails to complete the form or provide fingerprint impressions shall not be approved as an independent provider. 60792  
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(D) Except as provided in rules adopted by the department in accordance with division (G) of this section, the department shall not issue a new provider agreement to, and shall terminate an existing provider agreement of, an independent provider if the person has been convicted of or pleaded guilty to any of the following: 60797  
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(1) A violation of section 2903.01, 2903.02, 2903.03, 2903.04, 2903.041, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 2905.01, 2905.02, 2905.05, 2905.11, 2905.12, 2907.02, 2907.03, 2907.04, 2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 2907.23, 2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 2911.02, 2911.11, 2911.12, 2911.13, 2913.02, 2913.03, 2913.04, 2913.11, 2913.21, 2913.31, 2913.40, 2913.43, 2913.47, 2913.51, 2919.12, 2919.24, 2919.25, 2921.36, 2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.04, 2925.05, 2925.06, 2925.11, 2925.13, 2925.22, 2925.23, or 3716.11 of the Revised Code, felonious sexual penetration in violation of former section 2907.12 of the Revised Code, a violation of section 2905.04 of the Revised Code as it existed prior to July 1, 1996, a violation of section 2919.23 of the Revised Code that would have been a violation of section 2905.04 of the Revised Code as it existed prior to July 1, 1996, had the violation been committed prior to that date; 60803  
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(2) An existing or former law of this state, any other state, or the United States that is substantially equivalent to any of the offenses listed in division (D)(1) of this section. 60820  
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(E) Each independent provider shall pay to the bureau of criminal identification and investigation the fee prescribed pursuant to division (C)(3) of section 109.572 of the Revised Code for each criminal records check conducted pursuant to a request made under division (C) of this section. 60823  
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(F) The report of any criminal records check conducted by the bureau of criminal identification and investigation in accordance with section 109.572 of the Revised Code and pursuant to a request made under division (C) of this section is not a public record for the purposes of section 149.43 of the Revised Code and shall not be made available to any person other than the following: 60828  
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(1) The person who is the subject of the criminal records check or the person's representative; 60834  
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(2) The administrator at the department who is requesting the criminal records check or the administrator's representative; 60836  
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(3) Any court, hearing officer, or other necessary individual involved in a case dealing with a denial or termination of a provider agreement related to the criminal records check. 60838  
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(G) The department shall adopt rules in accordance with Chapter 119. of the Revised Code to implement this section. The rules shall specify circumstances under which the department may issue a provider agreement to an independent provider who has been convicted of or pleaded guilty to an offense listed or described in division (C)(1) of this section but meets personal character standards set by the department. 60841  
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**Sec. 5111.97.** (A) The director of job and family services may submit a request to the United States secretary of health and human services pursuant to section 1915 of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1396n, as amended, to obtain waivers of federal medicaid requirements that would otherwise be 60848  
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violated in the creation and implementation of two medicaid home 60853  
and community-based services programs to replace the Ohio home 60854  
care program being operated pursuant to rules adopted under 60855  
sections 5111.01 and 5111.02 of the Revised Code and a medicaid 60856  
waiver granted prior to the effective date of this section. In the 60857  
request, the director may specify the following: 60858

(1) That one of the replacement programs will provide home 60859  
and community-based services to individuals in need of nursing 60860  
facility care, including individuals enrolled in the Ohio home 60861  
care program; 60862

(2) That the other replacement program will provide services 60863  
to individuals in need of hospital care, including individuals 60864  
enrolled in the Ohio home care program; 60865

(3) That there will be a maximum number of individuals who 60866  
may be enrolled in the replacement programs in addition to the 60867  
number of individuals to be transferred from the Ohio home care 60868  
program; 60869

(4) That there will be a maximum amount the department may 60870  
expend each year for each individual enrolled in the replacement 60871  
programs; 60872

(5) That there will be a maximum aggregate amount the 60873  
department may expend each year for all individuals enrolled in 60874  
the replacement programs; 60875

(6) Any other requirement the director selects for the 60876  
replacement programs. 60877

(B) If the secretary grants the medicaid waivers requested, 60878  
the director may create and implement the replacement programs in 60879  
accordance with the provisions of the waivers granted. The 60880  
department of job and family services shall administer the 60881  
replacement programs. 60882

As the replacement programs are implemented, the director shall reduce the maximum number of individuals who may be enrolled in the Ohio home care program by the number of individuals who are transferred to the replacement programs. When all individuals who are eligible to be transferred to the replacement programs have been transferred, the director may submit to the secretary an amendment to the state medicaid plan to provide for the elimination of the Ohio home care program.

**Sec. 5112.03.** (A) The director of job and family services shall adopt, and may amend and rescind, rules in accordance with Chapter 119. of the Revised Code for the purpose of administering sections 5112.01 to 5112.21 of the Revised Code, including rules that do all of the following:

(1) Define as a "disproportionate share hospital" any hospital included under subsection (b) of section 1923 of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 1396r-4(b), as amended, and any other hospital the director determines appropriate;

(2) Prescribe the form for submission of cost reports under section 5112.04 of the Revised Code;

(3) Establish, in accordance with division (A) of section 5112.06 of the Revised Code, the assessment rate or rates to be applied to hospitals under that section;

(4) Establish schedules for hospitals to pay installments on their assessments under section 5112.06 of the Revised Code and for governmental hospitals to pay installments on their intergovernmental transfers under section 5112.07 of the Revised Code;

(5) Establish procedures to notify hospitals of adjustments made under division (B)(2)(b) of section 5112.06 of the Revised

Code in the amount of installments on their assessment;	60913
(6) Establish procedures to notify hospitals of adjustments made under division (D) of section 5112.09 of the Revised Code in the total amount of their assessment and to adjust for the remainder of the program year the amount of the installments on the assessments;	60914 60915 60916 60917 60918
(7) Establish, in accordance with section 5112.08 of the Revised Code, the methodology for paying hospitals under that section.	60919 60920 60921
The director shall consult with hospitals when adopting the rules required by divisions (A)(4) and (5) of this section in order to minimize hospitals' cash flow difficulties.	60922 60923 60924
(B) Rules adopted under this section may provide that "total facility costs" excludes costs associated with any of the following:	60925 60926 60927
(1) Recipients of the medical assistance program;	60928
(2) <u>Recipients of financial assistance provided under Chapter 5115. of the Revised Code;</u>	60929 60930
<u>(3)</u> Recipients of <del>disability assistance</del> medical assistance provided under Chapter 5115. of the Revised Code;	60931 60932
<del>(3)</del> <u>(4)</u> Recipients of the program for medically handicapped children established under section 3701.023 of the Revised Code;	60933 60934
<del>(4)</del> <u>(5)</u> Recipients of the medicare program established under Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended:	60935 60936 60937
<del>(5)</del> <u>(6)</u> Recipients of Title V of the "Social Security Act";	60938
<del>(6)</del> <u>(7)</u> Any other category of costs deemed appropriate by the director in accordance with Title XIX of the "Social Security Act" and the rules adopted under that title.	60939 60940 60941

Sec. 5112.08. The director of job and family services shall 60942  
adopt rules under section 5112.03 of the Revised Code establishing 60943  
a methodology to pay hospitals that is sufficient to expend all 60944  
money in the indigent care pool. Under the rules: 60945

(A) The department of job and family services may classify 60946  
similar hospitals into groups and allocate funds for distribution 60947  
within each group. 60948

(B) The department shall establish a method of allocating 60949  
funds to hospitals, taking into consideration the relative amount 60950  
of indigent care provided by each hospital or group of hospitals. 60951  
The amount to be allocated shall be based on any combination of 60952  
the following indicators of indigent care that the director 60953  
considers appropriate: 60954

(1) Total costs, volume, or proportion of services to 60955  
recipients of the medical assistance program, including recipients 60956  
enrolled in health insuring corporations; 60957

(2) Total costs, volume, or proportion of services to 60958  
low-income patients in addition to recipients of the medical 60959  
assistance program, which may include recipients of Title V of the 60960  
"Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as 60961  
amended, and disability recipients of financial or medical 60962  
assistance ~~established~~ provided under Chapter 5115. of the Revised 60963  
Code; 60964

(3) The amount of uncompensated care provided by the hospital 60965  
or group of hospitals; 60966

(4) Other factors that the director considers to be 60967  
appropriate indicators of indigent care. 60968

(C) The department shall distribute funds to each hospital or 60969  
group of hospitals in a manner that first may provide for an 60970  
additional distribution to individual hospitals that provide a 60971

high proportion of indigent care in relation to the total care 60972  
provided by the hospital or in relation to other hospitals. The 60973  
department shall establish a formula to distribute the remainder 60974  
of the funds. The formula shall be consistent with section 1923 of 60975  
the "Social Security Act," 42 U.S.C.A. 1396r-4, as amended, shall 60976  
be based on any combination of the indicators of indigent care 60977  
listed in division (B) of this section that the director considers 60978  
appropriate. 60979

(D) The department shall distribute funds to each hospital in 60980  
installments not later than ten working days after the deadline 60981  
established in rules for each hospital to pay an installment on 60982  
its assessment under section 5112.06 of the Revised Code. In the 60983  
case of a governmental hospital that makes intergovernmental 60984  
transfers, the department shall pay an installment under this 60985  
section not later than ten working days after the earlier of that 60986  
deadline or the deadline established in rules for the governmental 60987  
hospital to pay an installment on its intergovernmental transfer. 60988  
If the amount in the hospital care assurance program fund and the 60989  
hospital care assurance match fund created under section 5112.18 60990  
of the Revised Code is insufficient to make the total 60991  
distributions for which hospitals are eligible to receive in any 60992  
period, the department shall reduce the amount of each 60993  
distribution by the percentage by which the amount is 60994  
insufficient. The department shall distribute to hospitals any 60995  
amounts not distributed in the period in which they are due as 60996  
soon as moneys are available in the funds. 60997

**Sec. 5112.17.** (A) As used in this section: 60998

(1) "Federal poverty guideline" means the official poverty 60999  
guideline as revised annually by the United States secretary of 61000  
health and human services in accordance with section 673 of the 61001  
"Community Service Block Grant Act," 95 Stat. 511 (1981), 42 61002

U.S.C.A. 9902, as amended, for a family size equal to the size of 61003  
the family of the person whose income is being determined. 61004

(2) "Third-party payer" means any private or public entity or 61005  
program that may be liable by law or contract to make payment to 61006  
or on behalf of an individual for health care services. 61007  
"Third-party payer" does not include a hospital. 61008

(B) Each hospital that receives funds distributed under 61009  
sections 5112.01 to 5112.21 of the Revised Code shall provide, 61010  
without charge to the individual, basic, medically necessary 61011  
hospital-level services to individuals who are residents of this 61012  
state, are not recipients of the medical assistance program, and 61013  
whose income is at or below the federal poverty guideline. 61014  
Recipients of disability financial assistance and recipients of 61015  
disability medical assistance provided under Chapter 5115. of the 61016  
Revised Code qualify for services under this section. The director 61017  
of job and family services shall adopt rules under section 5112.03 61018  
of the Revised Code specifying the hospital services to be 61019  
provided under this section. 61020

(C) Nothing in this section shall be construed to prevent a 61021  
hospital from requiring an individual to apply for eligibility 61022  
under the medical assistance program before the hospital processes 61023  
an application under this section. Hospitals may bill any 61024  
third-party payer for services rendered under this section. 61025  
Hospitals may bill the medical assistance program, in accordance 61026  
with Chapter 5111. of the Revised Code and the rules adopted under 61027  
that chapter, for services rendered under this section if the 61028  
individual becomes a recipient of the program. Hospitals may bill 61029  
individuals for services under this section if all of the 61030  
following apply: 61031

(1) The hospital has an established post-billing procedure 61032  
for determining the individual's income and canceling the charges 61033  
if the individual is found to qualify for services under this 61034

section. 61035

(2) The initial bill, and at least the first follow-up bill, 61036  
is accompanied by a written statement that does all of the 61037  
following: 61038

(a) Explains that individuals with income at or below the 61039  
federal poverty guideline are eligible for services without 61040  
charge; 61041

(b) Specifies the federal poverty guideline for individuals 61042  
and families of various sizes at the time the bill is sent; 61043

(c) Describes the procedure required by division (C)(1) of 61044  
this section. 61045

(3) The hospital complies with any additional rules the 61046  
department adopts under section 5112.03 of the Revised Code. 61047

Notwithstanding division (B) of this section, a hospital 61048  
providing care to an individual under this section is subrogated 61049  
to the rights of any individual to receive compensation or 61050  
benefits from any person or governmental entity for the hospital 61051  
goods and services rendered. 61052

(D) Each hospital shall collect and report to the department, 61053  
in the form and manner prescribed by the department, information 61054  
on the number and identity of patients served pursuant to this 61055  
section. 61056

(E) This section applies beginning May 22, 1992, regardless 61057  
of whether the department has adopted rules specifying the 61058  
services to be provided. Nothing in this section alters the scope 61059  
or limits the obligation of any governmental entity or program, 61060  
including the program awarding reparations to victims of crime 61061  
under sections 2743.51 to 2743.72 of the Revised Code and the 61062  
program for medically handicapped children established under 61063  
section 3701.023 of the Revised Code, to pay for hospital services 61064

in accordance with state or local law. 61065

**Sec. 5112.31.** The department of job and family services 61066  
shall: 61067

(A) For the purpose of providing home and community-based 61068  
services for mentally retarded and developmentally disabled 61069  
persons, annually assess each intermediate care facility for the 61070  
mentally retarded a franchise permit fee equal to nine dollars and 61071  
~~twenty-four~~ sixty-three cents multiplied by the product of the 61072  
following: 61073

(1) The number of beds certified under Title XIX of the 61074  
"Social Security Act" on the first day of May of the calendar year 61075  
in which the assessment is determined pursuant to division (A) of 61076  
section 5112.33 of the Revised Code; 61077

(2) The number of days in the fiscal year beginning on the 61078  
first day of July of the same calendar year. 61079

(B) ~~Not later than~~ Beginning July 1, ~~1996~~ 2005, and the first 61080  
day of each July thereafter, adjust fees determined under division 61081  
(A) of this section in accordance with the composite inflation 61082  
factor established in rules adopted under section 5112.39 of the 61083  
Revised Code. 61084

If the United States secretary of health and human services 61085  
determines that the franchise permit fee established by sections 61086  
5112.30 to 5112.39 of the Revised Code would be an impermissible 61087  
health care-related tax under section 1903(w) of the "Social 61088  
Security Act," 42 U.S.C.A. 1396b(w), as amended, the department 61089  
shall take all necessary actions to cease implementation of those 61090  
sections in accordance with rules adopted under section 5112.39 of 61091  
the Revised Code. 61092

**Sec. 5112.99.** (A) The director of job and family services 61093  
shall impose a penalty ~~of one hundred dollars~~ for each day that a 61094



hospital fails to report the information required under section 61095  
5112.04 of the Revised Code on or before the dates specified in 61096  
that section. The amount of the penalty shall be established by 61097  
the director in rules adopted under section 5112.03 of the Revised 61098  
Code. 61099

(B) In addition to any other remedy available to the 61100  
department of job and family services under law to collect unpaid 61101  
assessments and transfers, the director shall impose a penalty of 61102  
ten per cent of the amount due, ~~not to exceed twenty thousand~~ 61103  
~~dollars,~~ on any hospital that fails to pay assessments or make 61104  
intergovernmental transfers by the dates required by rules adopted 61105  
under section 5112.03 of the Revised Code. 61106

(C) The director shall waive the penalties provided for in 61107  
divisions (A) and (B) of this section for good cause shown by the 61108  
hospital. 61109

(D) All penalties imposed under this section shall be 61110  
deposited into the ~~general revenue~~ health care administration fund 61111  
created by section 5111.94 of the Revised Code. 61112

**Sec. 5115.01.** (A) ~~There is hereby established~~ The director of 61113  
job and family services shall establish the disability financial 61114  
assistance program. ~~Except as provided in division (D) of this~~ 61115  
~~section, a disability assistance recipient shall receive financial~~ 61116  
assistance. ~~Except as provided in section 5115.11 of the Revised~~ 61117  
~~Code, a disability assistance recipient also shall receive~~ 61118  
~~disability assistance medical assistance.~~ 61119

~~Except as provided by division (B) of this section, a person~~ 61120  
~~who meets all of the following requirements is~~ (B) Subject to all 61121  
other eligibility requirements established by this chapter and the 61122  
rules adopted under it for the disability financial assistance 61123  
program, a person may be eligible for disability financial 61124  
assistance only if one of the following applies: 61125

<del>(1) The person is ineligible to participate in the Ohio works</del>	61126
<del>first program established under Chapter 5107. of the Revised Code</del>	61127
<del>and to receive supplemental security income provided pursuant to</del>	61128
<del>Title XVI of the Social Security Act, 86 Stat. 1475 (1972), 42</del>	61129
<del>U.S.C.A. 1383, as amended;</del>	61130
<del>(2) The person is at least one of the following:</del>	61131
<del>(a) Under age eighteen;</del>	61132
<del>(b) Age sixty or older;</del>	61133
<del>(c) Pregnant;</del>	61134
<del>(d) Unable <u>unable</u> to do any substantial or gainful activity</del>	61135
<del>by reason of a medically determinable physical or mental</del>	61136
<del>impairment that can be expected to result in death or has lasted</del>	61137
<del>or can be expected to last for not less than nine months;</del>	61138
<del>(e) A resident of a residential treatment center certified as</del>	61139
<del>an alcohol or drug addiction program by the department of alcohol</del>	61140
<del>and drug addiction services under section 3793.06 of the Revised</del>	61141
<del>Code.</del>	61142
<del>(f) Medication dependent as determined by a physician, as</del>	61143
<del>defined in section 4730.01 of the Revised Code, who has certified</del>	61144
<del>to the county department of job and family services that the</del>	61145
<del>person is receiving ongoing treatment for a chronic medical</del>	61146
<del>condition requiring continuous prescription medication for an</del>	61147
<del>indefinite, long term period of time and for whom the loss of the</del>	61148
<del>medication would result in a significant risk of medical emergency</del>	61149
<del>and loss of employability lasting at least nine months.</del>	61150
<del>(3) <u>The (2) On the day before the effective date of this</u></del>	61151
<del><u>amendment, the person meets the eligibility requirements</u></del>	61152
<del><u>established in rules adopted under section 5115.05 of the Revised</u></del>	61153
<del><u>Code was sixty years of age or older and one of the following is</u></del>	61154
<del><u>the case:</u></del>	61155

(a) The person was receiving or was scheduled to begin receiving financial assistance under this chapter on the basis of being sixty years of age or older; 61156  
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(b) An eligibility determination was pending regarding the person's application to receive financial assistance under this chapter on the basis of being sixty years of age or older and, on or after the effective date of this amendment, the person receives a determination of eligibility based on that application. 61159  
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~~(B)(1) A person is ineligible for disability assistance if the person is ineligible to participate in the Ohio works first program because of any of the following:~~ 61164  
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~~(a) Section 5101.83, 5107.14, or 5107.16 of the Revised Code;~~ 61167

~~(b) The time limit established by section 5107.18 of the Revised Code;~~ 61168  
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~~(c) Failure to comply with an application or verification procedure;~~ 61170  
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~~(d) The fraud control program established pursuant to 45 C.F.R. 235.112, as in effect July 1, 1996.~~ 61172  
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~~(2) A person under age eighteen is ineligible for disability assistance pursuant to division (B)(1)(a) of this section only if the person caused the assistance group to be ineligible to participate in the Ohio works first program or resides with a person age eighteen or older who was a member of the same ineligible assistance group. A person age eighteen or older is ineligible for disability assistance pursuant to division (B)(1)(a) of this section regardless of whether the person caused the assistance group to be ineligible to participate in the Ohio works first program.~~ 61174  
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~~(C) The county department of job and family services that serves the county in which a person receiving disability~~ 61184  
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~~assistance pursuant to division (A)(2)(c) of this section 61186  
participates in an alcohol or drug addiction program shall 61187  
designate a representative payee for purposes of receiving and 61188  
distributing financial assistance provided under the disability 61189  
assistance program to the person. 61190~~

~~(D) A person eligible for disability assistance pursuant to 61191  
division (A)(2)(f) of this section shall not receive financial 61192  
assistance. 61193~~

~~(E) The director of job and family services shall adopt rules 61194  
in accordance with section 111.15 of the Revised Code defining 61195  
terms and establishing standards for determining whether a person 61196  
meets a condition of disability assistance eligibility pursuant to 61197  
this section. 61198~~

**Sec. 5115.04 5115.02.** (A) An individual is not eligible for 61199  
disability financial assistance under this chapter if ~~either~~ any 61200  
of the following apply: 61201

~~(A)(1) The individual is eligible to participate in the Ohio 61202  
works first program established under Chapter 5107. of the Revised 61203  
Code; eligible to receive supplemental security income provided 61204  
pursuant to Title XVI of the "Social Security Act," 86 Stat. 1475 61205  
(1972), 42 U.S.C. 1383, as amended; or eligible to participate in 61206  
or receive assistance through another state or federal program 61207  
that provides financial assistance similar to disability financial 61208  
assistance, as determined by the director of job and family 61209  
services; 61210~~

~~(2) The individual is ineligible to participate in the Ohio 61211  
works first program because of any of the following: 61212~~

~~(a) The time limit established by section 5107.18 of the 61213  
Revised Code; 61214~~

~~(b) Failure to comply with an application or verification 61215~~

<u>procedure;</u>	61216
<u>(c) The fraud control provisions of section 5101.83 of the Revised Code or the fraud control program established pursuant to 45 C.F.R. 235.112, as in effect July 1, 1996;</u>	61217 61218 61219
<u>(d) The self-sufficiency contract provisions of sections 5107.14 and 5107.16 of the Revised Code;</u>	61220 61221
<u>(e) The minor parent provisions of section 5107.24 of the Revised Code;</u>	61222 61223
<u>(f) The provisions of section 5107.26 of the Revised Code regarding termination of employment without just cause.</u>	61224 61225
<u>(3) The individual, or any of the other individuals included in determining the individual's eligibility, is involved in a strike, as defined in section 5107.10 of the Revised Code;</u>	61226 61227 61228
<u>(4) For the purpose of avoiding consideration of property in determinations of the individual's eligibility for disability financial assistance or a greater amount of assistance, the individual has transferred property during the two years preceding application for or most recent redetermination of eligibility for disability assistance;</u>	61229 61230 61231 61232 61233 61234
<u>(5) The individual is a child and does not live with the child's parents, guardians, or other persons standing in place of parents, unless the child is emancipated by being married, by serving in the armed forces, or by court order;</u>	61235 61236 61237 61238
<u>(6) The individual reside in a county home, city infirmary, jail, or public institution;</u>	61239 61240
<u>(7) The individual is a fugitive felon as defined in section 5101.26 of the Revised Code;</u>	61241 61242
<del>(B)</del> <u>(8) The individual is violating a condition of probation, a community control sanction, parole, or a post-release control sanction imposed under federal or state law.</u>	61243 61244 61245

(B)(1) As used in division (B)(2) of this section, 61246  
"assistance group" has the same meaning as in section 5107.02 of 61247  
the Revised Code. 61248

(2) Ineligibility under division (A)(2)(c) or (d) of this 61249  
section applies as follows: 61250

(a) In the case of an individual who is under eighteen years 61251  
of age, the individual is ineligible only if the individual caused 61252  
the assistance group to be ineligible to participate in the Ohio 61253  
works first program or resides with an individual eighteen years 61254  
of age or older who was a member of the same ineligible assistance 61255  
group. 61256

(b) In the case of an individual who is eighteen years of age 61257  
or older, the individual is ineligible regardless of whether the 61258  
individual caused the assistance group to be ineligible to 61259  
participate in the Ohio works first program. 61260

**Sec. 5115.03.** (A) The director of job and family services 61261  
shall ~~do both of the following:~~ 61262

~~(A) Adopt~~ adopt rules in accordance with section 111.15 of 61263  
the Revised Code governing the administration of disability 61264  
assistance, including the administration of financial assistance 61265  
and disability assistance medical assistance program. The rules 61266  
shall be binding on county departments of job and family services. 61267

~~(B) Make investigations to determine whether disability~~ 61268  
~~assistance is being administered in compliance with the Revised~~ 61269  
~~Code and rules adopted by the director.~~ may establish or specify 61270  
any or all of the following: 61271

(1) Maximum payment amounts under the disability financial 61272  
assistance program, based on state appropriations for the program; 61273

(2) Limits on the length of time an individual may receive 61274  
disability financial assistance; 61275

<u>(3) Limits on the total number of individuals in the state</u>	61276
<u>who may receive disability financial assistance;</u>	61277
<u>(4) Income, resource, citizenship, age, residence, living</u>	61278
<u>arrangement, and other eligibility requirements for disability</u>	61279
<u>financial assistance;</u>	61280
<u>(5) Procedures for disregarding amounts of earned and</u>	61281
<u>unearned income for the purpose of determining eligibility for</u>	61282
<u>disability financial assistance and the amount of assistance to be</u>	61283
<u>provided;</u>	61284
<u>(6) Procedures for including the income and resources, or a</u>	61285
<u>certain amount of the income and resources, of a member of an</u>	61286
<u>individual's family when determining eligibility for disability</u>	61287
<u>financial assistance and the amount of assistance to be provided.</u>	61288
<u>(B) In establishing or specifying eligibility requirements</u>	61289
<u>for disability financial assistance, the director shall exclude</u>	61290
<u>the value of any tuition payment contract entered into under</u>	61291
<u>section 3334.09 of the Revised Code or any scholarship awarded</u>	61292
<u>under section 3334.18 of the Revised Code and the amount of</u>	61293
<u>payments made by the Ohio tuition trust authority under section</u>	61294
<u>3334.09 of the Revised Code pursuant to the contract or</u>	61295
<u>scholarship. The director shall not require any individual to</u>	61296
<u>terminate a tuition payment contract entered into under Chapter</u>	61297
<u>3334. of the Revised Code as a condition of eligibility for</u>	61298
<u>disability financial assistance. The director shall consider as</u>	61299
<u>income any refund paid under section 3334.10 of the Revised Code.</u>	61300
<u>(C) Notwithstanding section 3109.01 of the Revised Code, when</u>	61301
<u>a disability financial assistance applicant or recipient who is at</u>	61302
<u>least eighteen but under twenty-two years of age resides with the</u>	61303
<u>applicant's or recipient's parents, the income of the parents</u>	61304
<u>shall be taken into account in determining the applicant's or</u>	61305
<u>recipient's financial eligibility. In the rules adopted under this</u>	61306

section, the director shall specify procedures for determining the amount of income to be attributed to applicants and recipients in this age category. 61307  
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(D) For purposes of limiting the cost of the disability financial assistance program, the director may do either or both of the following: 61310  
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(1) Adopt rules in accordance with section 111.15 of the Revised Code that revise the program's eligibility requirements, the maximum payment amounts, or any other requirement or standard established or specified in the rules adopted by the director; 61313  
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(2) Suspend acceptance of applications for disability financial assistance. While a suspension is in effect, no person shall receive a determination or redetermination of eligibility for disability financial assistance unless the person was receiving the assistance during the month immediately preceding the suspension's effective date or the person submitted an application prior to the suspension's effective date and receives a determination of eligibility based on that application. The director may adopt rules in accordance with section 111.15 of the Revised Code establishing requirements and specifying procedures applicable to the suspension of acceptance of applications. 61317  
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**Sec. 5115.02 5115.04.** (A) The department of job and family services shall supervise and administer the disability financial assistance program, except that the department may require county departments of job and family services to perform any administrative function specified in rules adopted by the director of job and family services, ~~including making determinations of financial eligibility and initial determinations of whether an applicant meets a condition of eligibility under division (A)(2)(d) of section 5115.01 of the Revised Code, distributing financial assistance payments, reimbursing providers of medical~~ 61328  
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~~services for services provided to disability assistance recipients, and any other function specified in the rules. The department may also require county departments to make a final determination of whether an applicant meets a condition for eligibility under division (A)(2)(a), (b), (c), (e), or (f) of section 5115.01 of the Revised Code. The department shall make the final determination of whether an applicant meets a condition of eligibility under division (A)(2)(d) of section 5115.01 of the Revised Code.~~ 61338  
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(B) If the department requires county departments to perform administrative functions under this section, the director shall adopt rules in accordance with section 111.15 of the Revised Code governing the performance of the functions to be performed by county departments. County departments shall perform the functions in accordance with the rules. The director shall conduct investigations to determine whether disability financial assistance is being administered in compliance with the Revised Code and rules adopted by the director. 61347  
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(C) If disability financial assistance payments ~~or medical services reimbursements~~ are made by the county department of job and family services, the department shall advance sufficient funds to provide the county treasurer with the amount estimated for the payments ~~or reimbursements~~. Financial assistance payments shall be distributed in accordance with sections 117.45, 319.16, and 329.03 of the Revised Code. 61356  
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**Sec. 5115.05.** (A) The director of job and family services shall adopt rules in accordance with section 111.15 of the Revised Code establishing application and verification procedures, reapplication procedures, and ~~income, resource, citizenship, age, residence, living arrangement, assistance group composition, and other eligibility requirements~~ the director considers necessary in 61363  
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~~the administration of the application process for disability 61369  
financial assistance. The rules may provide for disregarding 61370  
amounts of earned and unearned income for the purpose of 61371  
determining whether an assistance group is eligible for assistance 61372  
and the amount of assistance provided under this chapter. The 61373  
rules also may provide that the income and resources, or a certain 61374  
amount of the income and resources, of a member of an assistance 61375  
group's family group will be included in determining whether the 61376  
assistance group is eligible for aid and the amount of aid 61377  
provided under this chapter. 61378~~

~~If financial assistance under this chapter is to be paid by 61379  
the auditor of state through the medium of direct deposit, the 61380  
application shall be accompanied by information the auditor needs 61381  
to make direct deposits. 61382~~

~~The department of job and family services may require 61383  
recipients of disability financial assistance to participate in a 61384  
reapplication process two months after initial approval for 61385  
assistance has been determined and at such other times as 61386  
specified in the department requires rules. 61387~~

~~If a recipient of disability assistance, or the spouse of or 61388  
member of the assistance group of a recipient, becomes possessed 61389  
of resources or income in excess of the amount allowed under rules 61390  
adopted under this section, or if other changes occur that affect 61391  
the person's eligibility or need for assistance, the recipient 61392  
shall notify the department or county department of job and family 61393  
services within the time limits specified in the rules. Failure of 61394  
a recipient to report possession of excess resources or income or 61395  
a change affecting eligibility or need within those time limits 61396  
shall be considered prima facie evidence of intent to defraud 61397  
under section 5115.15 of the Revised Code. 61398~~

~~Each applicant for or recipient of disability assistance 61399  
shall make reasonable efforts to secure support from persons 61400~~

~~responsible for the applicant's or recipient's support, and from 61401  
other sources, as a means of preventing or reducing the provision 61402  
of disability assistance at public expense. The department or 61403  
county department may provide assistance to the applicant or 61404  
recipient in securing other forms of financial or medical 61405  
assistance. 61406~~

~~Notwithstanding section 3109.01 of the Revised Code, when a 61407  
disability assistance applicant or recipient who is at least 61408  
eighteen but under twenty two years of age resides with the 61409  
applicant's or recipient's parents, the income of the parents 61410  
shall be taken into account in determining the applicant's or 61411  
recipient's financial eligibility. The director shall adopt rules 61412  
for determining the amount of income to be attributed to the 61413  
assistance group of applicants in this age category. 61414~~

~~(B) Any person who applies for disability financial 61415  
assistance ~~under this section~~ shall receive a voter registration 61416  
application under section 3503.10 of the Revised Code. 61417~~

~~**Sec. 5115.07 5115.06.** Financial assistance Assistance under 61418  
the disability financial assistance program may be given by 61419  
warrant, direct deposit, or, if provided by the director of job 61420  
and family services pursuant to section 5101.33 of the Revised 61421  
Code, by electronic benefit transfer. It shall be inalienable 61422  
whether by way of assignment, charge, or otherwise, and is exempt 61423  
from attachment, garnishment, or other like process. ~~Any~~ 61424~~

~~Any direct deposit shall be made to a financial institution 61425  
and account designated by the recipient. ~~The~~ If disability 61426  
financial assistance is to be paid by the auditor of state through 61427  
direct deposit, the application for assistance shall be 61428  
accompanied by information the auditor needs to make direct 61429  
deposits. 61430~~

~~The director of job and family services may adopt rules for 61431~~

designation of financial institutions and accounts. ~~No~~ 61432

~~No~~ financial institution shall impose any charge for direct 61433  
deposit of disability ~~assistance~~ financial assistance payments 61434  
that it does not charge all customers for similar services. 61435

~~The department of job and family services shall establish~~ 61436  
~~financial assistance payment amounts based on state~~ 61437  
~~appropriations.~~ 61438

~~Disability assistance may be given to persons living in their~~ 61439  
~~own homes or other suitable quarters, but shall not be given to~~ 61440  
~~persons who reside in a county home, city infirmary, jail, or~~ 61441  
~~public institution. Disability assistance shall not be given to an~~ 61442  
~~unemancipated child unless the child lives with the child's~~ 61443  
~~parents, guardians, or other persons standing in place of parents.~~ 61444  
~~For the purpose of this section, a child is emancipated if the~~ 61445  
~~child is married, serving in the armed forces, or has been~~ 61446  
~~emancipated by court order.~~ 61447

~~No person shall be eligible for disability assistance if, for~~ 61448  
~~the purpose of avoiding consideration of property in~~ 61449  
~~determinations of the person's eligibility for disability~~ 61450  
~~assistance or a greater amount of assistance, the person has~~ 61451  
~~transferred property during the two years preceding application~~ 61452  
~~for or most recent redetermination of eligibility for disability~~ 61453  
~~assistance.~~ 61454

**Sec. 5115.13 5115.07.** The acceptance of disability financial 61455  
assistance under ~~this chapter~~ the disability financial assistance 61456  
program constitutes an assignment to the department of job and 61457  
family services of any rights an individual receiving disability 61458  
the assistance has to financial support from any other person, 61459  
~~excluding medical support assigned pursuant to section 5101.59 of~~ 61460  
~~the Revised Code. The rights to support assigned to the department~~ 61461  
pursuant to this section constitute an obligation of the person 61462

responsible for providing the support to the state for the amount 61463  
of disability financial assistance payments to the recipient or 61464  
recipients whose needs are included in determining the amount of 61465  
~~disability~~ assistance received. Support payments assigned to the 61466  
state pursuant to this section shall be collected by the county 61467  
department of job and family services and reimbursements for 61468  
disability financial assistance payments shall be credited to the 61469  
state treasury. 61470

**Sec. 5115.10.** (A) The director of job and family services 61471  
shall establish a disability ~~assistance~~ medical assistance program 61472  
~~shall consist of a system of managed primary care. Until July 1,~~ 61473  
~~1992, the program shall also include limited hospital services,~~ 61474  
~~except that if prior to that date hospitals are required by~~ 61475  
~~section 5112.17 of the Revised Code to provide medical services~~ 61476  
~~without charge to persons specified in that section, the program~~ 61477  
~~shall cease to include hospital services at the time the~~ 61478  
~~requirement of section 5112.17 of the Revised Code takes effect.~~ 61479

~~The department of job and family services may require~~ 61480  
~~disability assistance medical assistance recipients to enroll in~~ 61481  
~~health insuring corporations or other managed care programs, or~~ 61482  
~~may limit the number or type of health care providers from which a~~ 61483  
~~recipient may receive services.~~ 61484

~~The director of job and family services shall adopt rules~~ 61485  
~~governing the disability assistance medical assistance program~~ 61486  
~~established under this division. The rules shall specify all of~~ 61487  
~~the following:~~ 61488

~~(1) Services that will be provided under the system of~~ 61489  
~~managed primary care;~~ 61490

~~(2) Hospital services that will be provided during the period~~ 61491  
~~that hospital services are provided under the program;~~ 61492

~~(3) The maximum authorized amount, scope, duration, or limit of payment for services.~~ 61493  
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~~(B) The director of job and family services shall designate medical services providers for the disability assistance medical assistance program. The first such designation shall be made not later than September 30, 1991. Services under the program shall be provided only by providers designated by the director. The director may require that, as a condition of being designated a disability assistance medical assistance provider, a provider enter into a provider agreement with the state department.~~ 61495  
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~~(C) As long as the disability assistance medical assistance program continues to include hospital services, the department or a county director of job and family services may, pursuant to rules adopted under this section, approve an application for disability assistance medical assistance for emergency inpatient hospital services when care has been given to a person who had not completed a sworn application for disability assistance at the time the care was rendered, if all of the following apply:~~ 61503  
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~~(1) The person files an application for disability assistance within sixty days after being discharged from the hospital or, if the conditions of division (D) of this section are met, while in the hospital;~~ 61511  
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~~(2) The person met all eligibility requirements for disability assistance at the time the care was rendered;~~ 61515  
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~~(3) The care given to the person was a medical service within the scope of disability assistance medical assistance as established under rules adopted by the director of job and family services.~~ 61517  
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~~(D) If a person files an application for disability assistance medical assistance for emergency inpatient hospital services while in the hospital, a face to face interview shall be~~ 61521  
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~~conducted with the applicant while the applicant is in the 61524  
hospital to determine whether the applicant is eligible for the 61525  
assistance. If the hospital agrees to reimburse the county 61526  
department of job and family services for all actual costs 61527  
incurred by the department in conducting the interview, the 61528  
interview shall be conducted by an employee of the county 61529  
department. If, at the request of the hospital, the county 61530  
department designates an employee of the hospital to conduct the 61531  
interview, the interview shall be conducted by the hospital 61532  
employee. 61533~~

~~(E) The department of job and family services may assume 61534  
responsibility for peer review of expenditures for disability 61535  
assistance medical assistance (B) Subject to all other eligibility 61536  
requirements established by this chapter and the rules adopted 61537  
under it for the disability medical assistance program, a person 61538  
may be eligible for disability medical assistance only if the 61539  
person is medication dependent, as determined by the department of 61540  
job and family services. 61541~~

~~(C) The director shall adopt rules under section 111.15 of 61542  
the Revised Code for purposes of implementing division (B) of this 61543  
section. The rules may specify or establish any or all of the 61544  
following: 61545~~

~~(1) Standards for determining whether a person is medication 61546  
dependent, including standards under which a person may qualify as 61547  
being medication dependent only if it is determined that both of 61548  
the following are the case: 61549~~

~~(a) The person is receiving ongoing treatment for a chronic 61550  
medical condition that requires continuous prescription medication 61551  
for an indefinite, long-term period of time; 61552~~

~~(b) Loss of the medication would result in a significant risk 61553  
of medical emergency and loss of employability lasting at least 61554~~

nine months. 61555

(2) A requirement that a person's medical condition be certified by an individual authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery; 61556  
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(3) Limitations on the chronic medical conditions and prescription medications that may qualify a person as being medication dependent. 61560  
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**Sec. 5115.11.** ~~If a member of an assistance group receiving disability assistance under this chapter~~ An individual who 61563  
qualifies for the medical assistance program established under 61564  
Chapter 5111. of the Revised Code, ~~the member~~ shall receive 61565  
medical assistance through that program rather than through the 61566  
disability ~~assistance~~ medical assistance program. 61567  
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An individual is ineligible for disability medical assistance if, for the purpose of avoiding consideration of property in determinations of the individual's eligibility for disability medical assistance or a greater amount of assistance, the person has transferred property during the two years preceding application for or most recent redetermination of eligibility for disability medical assistance. 61569  
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**Sec. 5115.12.** (A) The director of job and family services shall adopt rules in accordance with section 111.15 of the Revised Code governing the disability medical assistance program. The rules may establish or specify any or all of the following: 61576  
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(1) Income, resource, citizenship, age, residence, living arrangement, and other eligibility requirements; 61580  
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(2) Health services to be included in the program; 61582

(3) The maximum authorized amount, scope, duration, or limit 61583



<u>of payment for services;</u>	61584
<u>(4) Limits on the length of time an individual may receive disability medical assistance;</u>	61585
<u>(5) Limits on the total number of individuals in the state who may receive disability medical assistance.</u>	61586
<u>(B) For purposes of limiting the cost of the disability medical assistance program, the director may do either of the following:</u>	61587
<u>(1) Adopt rules in accordance with section 111.15 of the Revised Code that revise the program's eligibility requirements; the maximum authorized amount, scope, duration, or limit of payment for services included in the program; or any other requirement or standard established or specified by rules adopted under division (A) of this section or under section 5115.10 of the Revised Code;</u>	61588
<u>(2) Suspend acceptance of applications for disability medical assistance. While a suspension is in effect, no person shall receive a determination or redetermination of eligibility for disability medical assistance unless the person was receiving the assistance during the month immediately preceding the suspension's effective date or the person submitted an application prior to the suspension's effective date and receives a determination of eligibility based on that application. The director may adopt rules in accordance with section 111.15 of the Revised Code establishing requirements and specifying procedures applicable to the suspension of acceptance of applications.</u>	61589
<u>Sec. 5115.13. (A) The department of job and family services shall supervise and administer the disability medical program, except as follows:</u>	61590
<u>(1) The department may require county departments of job and</u>	61591
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family services to perform any administrative function specified 61614  
in rules adopted by the director of job and family services. 61615

(2) The director may contract with any private or public 61616  
entity in this state to perform any administrative function or to 61617  
administer any or all of the program. 61618

(B) If the department requires county departments to perform 61619  
administrative functions, the director of job and family services 61620  
shall adopt rules in accordance with section 111.15 of the Revised 61621  
Code governing the performance of the functions to be performed by 61622  
county departments. County departments shall perform the functions 61623  
in accordance with the rules. 61624

If the director contracts with a private or public entity to 61625  
perform administrative functions or to administer any or all of 61626  
the program, the director may either adopt rules in accordance 61627  
with section 111.15 of the Revised Code or include provisions in 61628  
the contract governing the performance of the functions by the 61629  
private or public entity. Entities under contract shall perform 61630  
the functions in accordance with the requirements established by 61631  
the director. 61632

(C) Whenever division (A)(1) or (2) of this section is 61633  
implemented, the director shall conduct investigations to 61634  
determine whether disability medical assistance is being 61635  
administered in compliance with the Revised Code and rules adopted 61636  
by the director or in accordance with the terms of the contract. 61637

**Sec. 5115.14.** (A) The director of job and family services 61638  
shall adopt rules in accordance with section 111.15 of the Revised 61639  
Code establishing application and verification procedures, 61640  
reapplication procedures, and other requirements the director 61641  
considers necessary in the administration of the application 61642  
process for disability medical assistance. 61643

(B) Any person who applies for disability medical assistance 61644  
shall receive a voter registration application under section 61645  
3503.10 of the Revised Code. 61646

**Sec. 5115.20.** (A) The department of job and family services 61647  
shall establish a disability advocacy program and each county 61648  
department of job and family services shall establish a disability 61649  
advocacy program unit or join with other county departments of job 61650  
and family services to establish a joint county disability 61651  
advocacy program unit. Through the program the department and 61652  
county departments shall cooperate in efforts to assist applicants 61653  
for and recipients of assistance under ~~this chapter~~ the disability 61654  
financial assistance program and the disability medical assistance 61655  
program, who might be eligible for supplemental security income 61656  
benefits under Title XVI of the "Social Security Act," 86 Stat. 61657  
1475 (1972), 42 U.S.C.A. 1383, as amended, in applying for those 61658  
benefits. ~~The~~ 61659

As part of their disability advocacy programs, the state 61660  
department and county departments may enter into contracts for the 61661  
~~services to applicants for and recipients of assistance under this~~ 61662  
~~chapter who might be eligible for supplemental security income~~ 61663  
~~benefits with~~ of persons and ~~governmental~~ government entities that 61664  
in the judgment of the department or county department have 61665  
demonstrated expertise in representing persons seeking 61666  
supplemental security income benefits. Each contract shall require 61667  
the person or entity with which a department contracts to assess 61668  
each person referred to it by the department to determine whether 61669  
the person appears to be eligible for supplemental security income 61670  
benefits, and, if the person appears to be eligible, assist the 61671  
person in applying and represent the person in any proceeding of 61672  
the social security administration, including any appeal or 61673  
~~reconsideration~~ of a denial of benefits. The department or county 61674

department shall provide to the person or entity with which it 61675  
contracts all records in its possession relevant to the 61676  
application for supplemental security income benefits. The 61677  
department shall require a county department with relevant records 61678  
to submit them to the person or entity. 61679

(B) Each applicant for or recipient of disability financial 61680  
assistance or disability medical assistance ~~under this chapter~~ 61681  
who, in the judgment of the department or a county department 61682  
might be eligible for supplemental security benefits, ~~must~~ shall, 61683  
as a condition of eligibility for assistance, apply for such 61684  
benefits if directed to do so by the department or county 61685  
department. 61686

(C) ~~Each~~ With regard to applicants for and recipients of 61687  
disability financial assistance or disability medical assistance, 61688  
each county department of job and family services shall do all of 61689  
the following: 61690

(1) Identify applicants ~~for~~ and recipients ~~of assistance~~ 61691  
~~under this chapter~~ who might be eligible for supplemental security 61692  
income benefits; 61693

(2) Assist applicants ~~for~~ and recipients ~~of assistance under~~ 61694  
~~this chapter~~ in securing documentation of disabling conditions or 61695  
refer them for such assistance to a person or government ~~agency~~ 61696  
entity with which the department or county department has 61697  
contracted under division (A) of this section; 61698

(3) Inform applicants ~~for~~ and recipients ~~of assistance under~~ 61699  
~~this chapter~~ of available sources of representation, which may 61700  
include a person or government entity with which the department or 61701  
county department has contracted under division (A) of this 61702  
section, and of their right to represent themselves in 61703  
reconsiderations and appeals of social security administration 61704  
decisions that deny them supplemental security income benefits. 61705

The county department may require the applicants and recipients, 61706  
as a condition of eligibility for assistance, to pursue 61707  
reconsiderations and appeals of social security administration 61708  
decisions that deny them supplemental security income benefits, 61709  
and shall assist applicants and recipients as necessary to obtain 61710  
such benefits or refer them to a person or government ~~agency~~ 61711  
entity with which the department or county department has 61712  
contracted under division (A) of this section. 61713

(4) Require applicants ~~for~~ and recipients ~~of assistance under~~ 61714  
~~this chapter~~ who, in the judgment of the county department, are or 61715  
may be aged, blind, or disabled, to apply for medical assistance 61716  
under Chapter 5111. of the Revised Code, make determinations when 61717  
appropriate as to eligibility for medical assistance, and refer 61718  
their applications when necessary to the disability determination 61719  
unit established in accordance with division (F) of this section 61720  
for expedited review; 61721

(5) Require each applicant ~~for~~ and ~~each~~ recipient ~~of~~ 61722  
~~assistance under this chapter~~ who in the judgment of the 61723  
department or the county department might be eligible for 61724  
supplemental security income benefits, as a condition of 61725  
eligibility for disability financial assistance or disability 61726  
medical assistance ~~under this chapter~~, to execute a written 61727  
authorization for the secretary of health and human services to 61728  
withhold benefits due that individual and pay to the director of 61729  
job and family services or the director's designee an amount 61730  
sufficient to reimburse the state and county shares of interim 61731  
assistance furnished to the individual. For the purposes of 61732  
division (C)(5) of this section, "benefits" and "interim 61733  
assistance" have the meanings given in Title XVI of the "Social 61734  
Security Act." 61735

(D) The director of job and family services shall adopt rules 61736  
in accordance with ~~Chapter 119.~~ section 111.15 of the Revised Code 61737

for the effective administration of the disability advocacy program. The rules shall include all of the following:

(1) Methods to be used in collecting information from and disseminating it to county departments, including the following:

(a) The number of individuals in the county who are disabled recipients of disability financial assistance or disability medical assistance ~~under this chapter in the county;~~

(b) The final decision made either by the social security administration or by a court for each application or reconsideration in which an individual was assisted pursuant to this section.

(2) The type and process of training to be provided by the department of job and family services to the employees of the county department of job and family services who perform duties under this section;

(3) Requirements for the written authorization required by division (C)(5) of this section.

(E) The department shall provide basic and continuing training to employees of the county department of job and family services who perform duties under this section. Training shall include but not be limited to all processes necessary to obtain federal disability benefits, and methods of advocacy.

(F) The department shall establish a disability determination unit and develop guidelines for expediting reviews of applications for medical assistance under Chapter 5111. of the Revised Code for persons who have been referred to the unit under division (C)(4) of this section. The department shall make determinations of eligibility for medical assistance for any such person within the time prescribed by federal regulations.

(G) The department may, under rules the director of job and

family services adopts in accordance with section 111.15 of the Revised Code, pay a portion of the federal reimbursement described in division (C)(5) of this section to persons or ~~agencies~~ government entities that assist or represent assistance recipients in reconsiderations and appeals of social security administration decisions denying them supplemental security income benefits.

(H) The director shall conduct investigations to determine whether disability advocacy programs are being administered in compliance with the Revised Code and the rules adopted by the director pursuant to this section.

Sec. 5115.22. (A) If a recipient of disability financial assistance or disability medical assistance, or an individual whose income and resources are included in determining the recipient's eligibility for the assistance, becomes possessed of resources or income in excess of the amount allowed to retain eligibility, or if other changes occur that affect the recipient's eligibility or need for assistance, the recipient shall notify the state or county department of job and family services within the time limits specified in rules adopted by the director of job and family services in accordance with section 111.15 of the Revised Code. Failure of a recipient to report possession of excess resources or income or a change affecting eligibility or need within those time limits shall be considered prima-facie evidence of intent to defraud under section 5115.23 of the Revised Code.

(B) As a condition of eligibility for disability financial assistance or disability medical assistance, and as a means of preventing or reducing the provision of assistance at public expense, each applicant for or recipient of the assistance shall make reasonable efforts to secure support from persons responsible for the applicant's or recipient's support, and from other sources, including any federal program designed to provide

assistance to individuals with disabilities. The state or county 61799  
department of job and family services may provide assistance to 61800  
the applicant or recipient in securing other forms of financial 61801  
assistance. 61802

**Sec. ~~5115.15~~ 5115.23.** As used in this section, "erroneous 61803  
payments" means disability financial assistance payments~~7~~ 61804  
~~including or~~ disability ~~assistance~~ medical assistance payments~~7~~ 61805  
made to persons who are not entitled to receive them, including 61806  
payments made as a result of misrepresentation or fraud, and 61807  
payments made due to an error by the recipient or by the county 61808  
department of job and family services that made the payment. 61809

The department of job and family services shall adopt rules 61810  
in accordance with section 111.15 of the Revised Code specifying 61811  
the circumstances under which action is to be taken under this 61812  
section to recover erroneous payments. The department, or a county 61813  
department of job and family services at the request of the 61814  
department, shall take action to recover erroneous payments in the 61815  
circumstances specified in the rules. The department or county 61816  
department may institute a civil action to recover erroneous 61817  
payments. 61818

Whenever disability financial assistance or disability 61819  
medical assistance has been furnished to a recipient for whose 61820  
support another person is responsible, the other person shall, in 61821  
addition to the liability otherwise imposed, as a consequence of 61822  
failure to support the recipient, be liable for all ~~disability~~ 61823  
assistance furnished the recipient. The value of the assistance so 61824  
furnished may be recovered in a civil action brought by the county 61825  
department of job and family services. 61826

Each county department of job and family services shall 61827  
retain fifty per cent of the erroneous payments it recovers under 61828  
this section. The department of job and family services shall 61829



receive the remaining fifty per cent. 61830

**Sec. 5119.61.** Any provision in this chapter that refers to a 61831  
board of alcohol, drug addiction, and mental health services also 61832  
refers to the community mental health board in an alcohol, drug 61833  
addiction, and mental health service district that has a community 61834  
mental health board. 61835

The director of mental health with respect to all facilities 61836  
and programs established and operated under Chapter 340. of the 61837  
Revised Code for mentally ill and emotionally disturbed persons, 61838  
shall do all of the following: 61839

(A) Adopt rules pursuant to Chapter 119. of the Revised Code 61840  
that may be necessary to carry out the purposes of Chapter 340. 61841  
and sections 5119.61 to 5119.63 of the Revised Code. 61842

(1) The rules shall include all of the following: 61843

(a) Rules governing a community mental health agency's 61844  
services under section 340.091 of the Revised Code to an 61845  
individual referred to the agency under division (C)(2) of section 61846  
173.35 of the Revised Code; 61847

(b) For the purpose of division (A)(16) of section 340.03 of 61848  
the Revised Code, rules governing the duties of mental health 61849  
agencies and boards of alcohol, drug addiction, and mental health 61850  
services under section 3722.18 of the Revised Code regarding 61851  
referrals of individuals with mental illness or severe mental 61852  
disability to adult care facilities and effective arrangements for 61853  
ongoing mental health services for the individuals. The rules 61854  
shall do at least the following: 61855

(i) Provide for agencies and boards to participate fully in 61856  
the procedures owners and managers of adult care facilities must 61857  
follow under division (A)(2) of section 3722.18 of the Revised 61858  
Code; 61859

(ii) Specify the manner in which boards are accountable for ensuring that ongoing mental health services are effectively arranged for individuals with mental illness or severe mental disability who are referred by the board or mental health agency under contract with the board to an adult care facility.

(c) Rules governing a board of alcohol, drug addiction, and mental health services when making a report to the director of health under section 3722.17 of the Revised Code regarding the quality of care and services provided by an adult care facility to a person with mental illness or a severe mental disability.

(2) Rules may be adopted to govern the method of paying a community mental health facility ~~described, as defined in division (B) of~~ section 5111.022 of the Revised Code, for providing services ~~established by~~ listed in division ~~(A)(B)~~ of that section. Such rules must be consistent with the contract entered into between the departments of job and family services and mental health under ~~division (E) of that~~ section 5111.91 of the Revised Code and include requirements ensuring appropriate service utilization.

(B) Review and evaluate, and, taking into account the findings and recommendations of the board of alcohol, drug addiction, and mental health services of the district served by the program and the requirements and priorities of the state mental health plan, including the needs of residents of the district now residing in state mental institutions, approve and allocate funds to support community programs, and make recommendations for needed improvements to boards of alcohol, drug addiction, and mental health services;

(C) Withhold state and federal funds for any program, in whole or in part, from a board of alcohol, drug addiction, and mental health services in the event of failure of that program to