

**Rule Summary and Fiscal Analysis (Part A)****Ohio Department of Medicaid**

Agency Name

**Tommi Potter**

Contact

Division

**50 West Town Street Suite 400 Columbus OH  
43218-2709****614-752-3877****614-995-1301**

Agency Mailing Address (Plus Zip)

Phone

Fax

**Tommi.Potter@medicaid.ohio.gov**

Email

**5160-10-01**

Rule Number

**NEW**

TYPE of rule filing

Rule Title/Tag Line

**Durable medical equipment, prostheses, orthoses, and supplies  
(DMEPOS): general provisions.****RULE SUMMARY**

1. Is the rule being filed for five year review (FYR)? **No**
2. Are you proposing this rule as a result of recent legislation? **No**
3. Statute prescribing the procedure in accordance with the agency is required to adopt the rule: **119.03**
4. Statute(s) authorizing agency to adopt the rule: **5164.02**
5. Statute(s) the rule, as filed, amplifies or implements: **5164.02, 5165.47**
6. State the reason(s) for proposing (i.e., why are you filing,) this rule:

Pursuant to the requirement for five-year review, this new rule replaces rescinded rules 5160-10-01, 5160-10-02, 5160-10-03, 5160-10-05, 5160-10-06, 5160-10-20, and 5160-4-27.

7. If the rule is an AMENDMENT, then summarize the changes and the content of the proposed rule; If the rule type is RESCISSION, NEW or NO CHANGE, then summarize the content of the rule:

This rule sets forth general coverage and payment policies for DMEPOS items and services.

New rule 5160-10-01 incorporates and consolidates existing rules 5160-4-27, 5160-10-01, 5160-10-02, 5160-10-03, 5160-10-05, 5160-10-06, and 5160-10-20. It also

incorporates provisions that are common to many of the other existing rules in Chapter 5160-10, such as the statement that payment for a particular durable medical equipment item or medical supply furnished to a resident of a long-term care facility (LTCF) is the responsibility of the LTCF or the obligation placed on a supplier to ensure proper instruction on equipment use and procedures (which has been expanded to include, when appropriate, instruction for someone assisting the individual recipient). The default maximum length of time from the date of a prescription to the first date of service is specified as sixty days.

The existing payment schedules that have been published previously as appendices to rules 5160-10-03 and 5160-10-20 have been combined into a single schedule, which is published as an appendix to new rule 5160-10-01.

8. If the rule incorporates a text or other material by reference and the agency claims the incorporation by reference is exempt from compliance with sections 121.71 to 121.74 of the Revised Code because the text or other material is **generally available** to persons who reasonably can be expected to be affected by the rule, provide an explanation of how the text or other material is generally available to those persons:

This rule incorporates one or more references to the Ohio Revised Code. This question is not applicable to any incorporation by reference to the Ohio Revised Code because such reference is exempt from compliance with RC 121.71 to 121.74 pursuant to RC 121.76(A)(1).

This rule incorporates one or more references to another rule or rules of the Ohio Administrative Code. This question is not applicable to any incorporation by reference to another OAC rule because such reference is exempt from compliance with RC 121.71 to 121.74 pursuant to RC 121.76 (A)(3).

9. If the rule incorporates a text or other material by reference, and it was **infeasible** for the agency to file the text or other material electronically, provide an explanation of why filing the text or other material electronically was infeasible:

Not Applicable.

10. If the rule is being **rescinded** and incorporates a text or other material by reference, and it was **infeasible** for the agency to file the text or other material, provide an explanation of why filing the text or other material was infeasible:

*Not Applicable.*

11. If **revising** or **refiling** this rule, identify changes made from the previously filed version of this rule; if none, please state so. If applicable, indicate each specific paragraph of the rule that has been modified:

*Not Applicable.*

12. Five Year Review (FYR) Date:

(If the rule is not exempt and you answered NO to question No. 1, provide the scheduled review date. If you answered YES to No. 1, the review date for this rule is the filing date.)

NOTE: If the rule is not exempt at the time of final filing, two dates are required: the current review date plus a date not to exceed 5 years from the effective date for Amended rules or a date not to exceed 5 years from the review date for No Change rules.

**FISCAL ANALYSIS**

13. Estimate the total amount by which *this proposed rule* would **increase /decrease** either **revenues /expenditures** for the agency during the current biennium (in dollars): Explain the net impact of the proposed changes to the budget of your agency/department.

This will decrease expenditures.

\$4.59 million

If current utilization patterns are assumed for both fee-for-service Medicaid and Medicaid managed care, adjustments to maximum payment amounts will change overall payment during the final four quarters of the 2018-2019 biennium by the indicated amount for the following items:

- \* TENS units, suction pumps, and cough stimulators, \$3.23 million increase
- \* Certain covered orthotic devices, \$0.46 million increase
- \* Custom tracheostomy tubes, \$0.20 million increase
- \* Hospital beds and pressure-reducing mattresses, \$4.57 million decrease
- \* Oxygen, \$3.18 million decrease (addressed in the RSFA for new rule 5160-10-13)
- \* Folding walkers and hydraulic lifts, \$0.60 million decrease
- \* Shift in tracheostomy tube utilization, \$0.10 million decrease
- \* Certain other covered DMEPOS items, \$0.04 million decrease

(The discrepancy in the total is the result of rounding.)

14. Identify the appropriation (by line item etc.) that authorizes each expenditure necessitated by the proposed rule:

Not applicable.

15.

Provide a summary of the estimated cost of compliance with the rule to all

directly affected persons. When appropriate, please include the source for your information/estimated costs, e.g. industry, CFR, internal/agency:

The requirement to hold a DMEPOS license or to be exempt from licensure is a condition of doing business in Ohio as a DMEPOS supplier; the cost it entails cannot be attributed to this rule.

The cost to contact a customer, based on Labor Market Information (LMI) data, is between \$0.26 and \$0.36 per minute.

16. Does this rule have a fiscal effect on school districts, counties, townships, or municipal corporations? **No**

17. Does this rule deal with environmental protection or contain a component dealing with environmental protection as defined in R. C. 121.39? **No**

**S.B. 2 (129th General Assembly) Questions**

18. Has this rule been filed with the Common Sense Initiative Office pursuant to R.C. 121.82? **Yes**

19. Specific to this rule, answer the following:

A.) Does this rule require a license, permit, or any other prior authorization to engage in or operate a line of business? **Yes**

This rule requires providers of certain DMEPOS items or services to possess the appropriate licensure.

B.) Does this rule impose a criminal penalty, a civil penalty, or another sanction, or create a cause of action, for failure to comply with its terms? **No**

C.) Does this rule require specific expenditures or the report of information as a condition of compliance? **Yes**

This rule requires providers to notify a recipient when an item has in effect been purchased through rental.