

Rule Summary and Fiscal Analysis

Part A - General Questions

Rule Number: 5160-10-01

Rule Type: Rescission

Rule Title/Tagline: Durable medical equipment, prostheses, orthoses, and supplies (DMEPOS): general provisions.

Agency Name: Ohio Department of Medicaid

Division:

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I. Rule Summary

1. **Is this a five year rule review?** Yes
 - A. **What is the rule's five year review date?** 10/17/2023
2. **Is this rule the result of recent legislation?** No
3. **What statute is this rule being promulgated under?** 119.03
4. **What statute(s) grant rule writing authority?** 5164.02
5. **What statute(s) does the rule implement or amplify?** 5164.02, 5165.47
6. **What are the reasons for proposing the rule?**

To update policy related to the administration of the Medicaid program, ODM is rescinding this rule and replacing it with a new rule of the same number and tagline.

7. **Summarize the rule's content, and if this is an amended rule, also summarize the rule's changes.**

Rule 5160-10-01 sets forth overarching coverage and payment policy for durable medical equipment, prostheses, orthotics, and supplies (DMEPOS). The schedule of

maximum payment amounts for most DMEPOS items and services is published as an appendix to the rule.

- 8. Does the rule incorporate material by reference? Yes**
- 9. If the rule incorporates material by reference and the agency claims the material is exempt pursuant to R.C. 121.75, please explain the basis for the exemption and how an individual can find the referenced material.**

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 121.75.

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 121.75.

This rule incorporates one or more dated references to an ODM form. Each cited ODM form is generally available to the public on the ODM web site (<http://medicaid.ohio.gov>), in accordance with RC 121.75(E).

- 10. If revising or re-filing the rule, please indicate the changes made in the revised or re-filed version of the rule.**

Not Applicable

II. Fiscal Analysis

- 11. Please estimate the increase / decrease in the agency's revenues or expenditures in the current biennium due to this rule.**

This will have no impact on revenues or expenditures.

\$0

Not Applicable

- 12. What are the estimated costs of compliance for all persons and/or organizations directly affected by the rule?**

The rule requires a DMEPOS provider to notify a recipient that a condition has been met or an event has occurred (e.g., that an item has in effect been purchased through rental). Such notification necessitates a phone call, text message, e-mail message, or other basic form of contact. Such communication is a general administrative expense, and the cost of transmission is minimal. The cost of the staff time involved depends on the job classification (e.g., receptionist or administrative assistant); sixty seconds of communication costs between \$0.31 and \$0.64.

13. **Does the rule increase local government costs? (If yes, you must complete an RSFA Part B).** No
14. **Does the rule regulate environmental protection? (If yes, you must complete an RSFA Part C).** No
15. **If the rule imposes a regulation fee, explain how the fee directly relates to your agency's cost in regulating the individual or business.**

Not Applicable

III. Common Sense Initiative (CSI) Questions

16. **Was this rule filed with the Common Sense Initiative Office?** Yes
17. **Does this rule have an adverse impact on business?** Yes
 - A. **Does this rule require a license, permit, or any other prior authorization to engage in or operate a line of business?** No

The mention of licensure in current rule 5160-10-01 is descriptive rather than prescriptive. The Ohio Department of Medicaid (ODM) enrolls providers; it does not license them. Companies that deal in certain categories of DMEPOS—life-sustaining complex technology and orthotics/prosthetics—and certain practitioners—such as licensed respiratory care professionals—are subject to licensure by their respective regulatory authorities, regardless of whether they are enrolled as Medicaid providers or not. References to licensure in Medicaid rules is an acknowledgment that ODM recognizes these professional distinctions and will not pay a provider for furnishing items and services outside its licensure. DMEPOS licensure is a condition of doing business in Ohio; the cost it entails cannot be attributed to Medicaid.

- 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 the report of information.

- D. Is it likely that the rule will directly reduce the revenue or increase the expenses of the lines of business of which it will apply or applies? No

IV. Regulatory Restrictions (This section only applies to agencies indicated in R.C. 121.95 (A))

18. Are you adding a new or removing an existing regulatory restriction as defined in R.C. 121.95? No

- A. How many new regulatory restrictions do you propose adding to this rule?

Not Applicable

- B. How many existing regulatory restrictions do you propose removing from this rule?

Not Applicable

- C. If you are not removing existing regulatory restrictions from this rule, please list the rule number(s) from which you are removing restrictions.

Not Applicable