

Rule Summary and Fiscal Analysis

Part A - General Questions

Rule Number: 5160-10-01

Rule Type: New

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?** No

A. **What is the rule's five year review date?**

2. **Is this rule the result of recent legislation?** Yes

A. **If so, what is the bill number, General Assembly and Sponsor?** HB 33 - 135 - Rep. Edwards

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To update policy related to the administration of the Medicaid program, ODM is enacting this new rule to replace a rescinded rule of the same number and tagline.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.

* Maximum payment amounts are increased in accordance with provisions of H.B. 33 (135th G.A.). These increases are reflected in the appendix to OAC rule 5160 10 01, which serves as a payment schedule.

* Several other significant changes are made in the appendix to OAC rule 5160 10 01.
o More than 50 DMEPOS items are transferred from the temporary CPT and HCPCS Level II Procedure Code Changes table.

o Frequency limits are adjusted for several DMEPOS items. For certain ostomy items in particular, the quantity per period is increased.

o The PA status for certain items is brought into alignment.

o Two other documents are incorporated: the appendix to OAC rule 5160 10 13 and the published schedule that represents the payment policy set forth in OAC rule 5160 10 16.

o A list is added of "atypical" items that are not covered routinely but may be covered with PA.

* Changes are made in the body of OAC rule 5160 10 01 to clarify coverage and payment policy.

o The entire text is restructured.

o The definition and accompanying description of the term 'certificate of medical necessity (CMN)' are revised.

o Definitions of the terms 'date of service', 'medical supplies', 'prior authorization (PA)', and 'starting date for dispensing' are added.

o A statement is added that the validity period of a prescription is assumed to be one year.

o The description 'custom or specialized' is dropped from the list of characteristics that always subject a DMEPOS item to PA.

o The terms 'medical practitioner' and 'medical practitioner's office' are replaced by 'healthcare practitioner' and 'appropriate healthcare setting' respectively.

o Provisions involving CMNs, prescriptions, PA, requests for need verification, and information to be kept on file are streamlined and gathered into a single documentation section.

o An arithmetical formula is specified for establishing payment amounts for enteral nutrition products for which payment is determined through PA.

In addition, several improvements have been made to form ODM 01913, which is referenced in the body of 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.**

A revision date was added to the citation for form ODM 01913.

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 increase expenditures.

\$28.9 million

Increases in overall payment are proposed for DMEPOS items and services of \$15.4 million per year and for enteral nutrition products of \$3.9 million per year, for an annual total of \$19.3 million. This total amounts to \$28.9 million for the 18 months from January 2024 to June 2025.

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

Not Applicable

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? No

17. Does this rule have an adverse impact on business? No

A. Does this rule require a license, permit, or any other prior authorization to engage in or operate a line of business? No

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? No

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