

Rule Summary and Fiscal Analysis

Part A - General Questions

Rule Number: 5160-10-19

Rule Type: Amendment

Rule Title/Tagline: DMEPOS: positive airway pressure devices.

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?** 4/16/2021
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?**

ODM subjected this rule to the five-year review process and, as a result, is updating policy related to the administration of the Medicaid program.

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

This rule sets forth coverage and payment policies for positive airway pressure (PAP) devices. The text of the rule has been streamlined; for example, an unnecessary specification of the duration of the diagnostic component of a sleep study has been removed. Coverage provisions have been extended to include not only

obstructive sleep apnea but also other conditions for which positive airway pressure is an appropriate treatment. A provision has been added that allows payment for a respiratory study performed with a PAP device that records relevant data automatically. The revision date of the associated certificate of medical necessity (CMN) has been changed.

Specific terms that are identified in Am. Sub. H.B. 166 (133rd G.A.) as presumptively constituting a regulatory restriction have been removed from this 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 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?**

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? Yes
 - A. How many new regulatory restrictions do you propose adding? 0
 - B. How many existing regulatory restrictions do you propose removing? 4
 - 5160-10-19(A) --- 'may not'
 - 5160-10-19(B)(1) --- 'must'

5160-10-19(B)(4) --- 'is [not] required'

5160-10-19(C) --- 'may not'