

Rule Summary and Fiscal Analysis

Part A - General Questions

Rule Number: 5160-12-01

Rule Type: Amendment

Rule Title/Tagline: Home health services: provision requirements, coverage and service specification.

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?** 11/20/2020
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?** Ohio Revised Code Section 5164.02
5. **What statute(s) does the rule implement or amplify?** Ohio Revised Code Sections 5164.02 and 5162.03
6. **What are the reasons for proposing the rule?**

The amendments are proposed to align state policy with changes in federal policy enacted in the Cares Act and to provide additional flexibility, reducing the administrative burden on providers and improving access to care.
7. **Summarize the rule's content, and if this is an amended rule, also summarize the rule's changes.**

Ohio Administrative Code Rule 5160-12-01 outlines guidelines for coverage of home health services, including benefit limitations. Changes in the rule align Medicaid policy with changes in federal guidelines enacted in the Cares Act and provide opportunities to use telehealth when it is clinically appropriate.

8. **Does the rule incorporate material by reference? No**
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.**

Not Applicable

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

The changes provide additional flexibilities for providers but are not expected to impact the utilization of home health services.

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

The costs of developing a care plan and obtaining prior authorizations may vary widely by provider depending on the individual provider's business model, caseload and staffing. As a result, we are unable to reliably estimate the cost of compliance.

The amendments provide additional flexibility for providers and may reduce the cost of compliance in limited circumstances.

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? Yes

OAC Rule 5160-12-01 requires Medicare certification for agency providers who would like to be Medicaid providers of home health services. It further limits employees who can provide nursing services to LPNs and RNs and employees who can provide therapy services to licensed physical therapists, speech-language pathologists, physical therapy assistants and certified occupational therapy assistants. Note that these are existing requirements and are not impacted by these amendments.

- 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

The amendments to the rule provide additional flexibility and may reduce costs to some providers in limited circumstances.

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? 14

OAC Rule 5160-12-01(B) is amended so that "will" replaces "must" so that the regulation says "...the physician will"

5160-12-01(B) is amended so that "will" replaces "must" so that the regulation says "....the individual will...."

5160-12-01(B) is amended so that "will" replaces "must" so that the regulation says "....encounter will be....."

5160-12-01(B)(1) so that "will" replaces "must" so that the regulation says ""....encounter will be....."

5160-12-01(B)(2) so that "will" replaces "must" so that the regulation says ""....encounter will be....."

5160-12-01(B)(3) so that "will" replaces "must" so that the regulation says ""....encounter will be....."

5160-12-01(F) is amended so that "will" replaces "must" so that the regulation says "...services will..."

5160-12-01(F)(2) is amended so that "will not" replaces "cannot" so that the regulation says "...clinician will not be..."

5160-12-01(G)(1)(b) is amended so that "will" replaces "must" so that the regulation says "...LPN will..."

5160-12-01(G)(2) is amended so that "use" replaces "requires" so that the regulation says "...that use the skills..."

5160-12-01(G)(2)(c) is amended so that "Are" replaces "Must" so that the regulation says "Are provided..."

5160-12-01(G)(3)(c) is amended so that "Are" replaces "Must" so that the regulation says "Are provided..."

5160-12-01(H)(2) is amended so that "Needs" replaces "Requires" so that the regulation says "...Needs more than..."

5160-12-01(H)(4) is amended so that "Needs" replaces "Requires" so that the regulation says "...Needs home health..."