

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

Agency Name

Division

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**5160-12-02.3**

Rule Number

**AMENDMENT**

TYPE of rule filing

Rule Title/Tag Line

**Private duty nursing: procedures for service authorization.****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: **5162.03, 5164.02, 5164.70, 5166.02**
6. State the reason(s) for proposing (i.e., why are you filing,) this rule:

This rule is being proposed for amendment to allow the Department of Developmental Disabilities (DODD) to prior authorize private duty nursing (PDN) services for individuals enrolled on a DODD administered waiver. Additional changes were made to clarify roles and responsibilities of entities responsible for authorizing PDN services, to correct rule and form citations, and to change terminology used in the rule to ensure consistency with terms used in other Medicaid chapter rules. In addition, typographical errors were corrected, such as

reflecting accurate rule citations and removing redundant punctuation.

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:

1. References to "children and adult" are being changed to "individuals" in Paragraphs (B) and (C) for continuity and to allow for the consistency with terminology used in other parts of the Department's division of rules;
2. Paragraph (B)(2)(b) was added to reference the individual's right to request a hearing should the individual disagree with the amount, scope, and/or duration of PDN services authorized by ODM;
3. Paragraph (C) is being revised to remove references to the Ohio Department of Developmental Disabilities (DODD) to the newly created Paragraph (D); and
4. Paragraph D is being created to capture a new provision (i.e., which will allow DODD to prior authorize private duty nursing services for individuals enrolled on a DODD administered waiver).

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 response left blank because filer specified online that the rule does not incorporate a text or other material by reference.*

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:

*This response left blank because filer specified online that the rule does not incorporate a text or other material by reference.*

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: **7/1/2020**

(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 have no impact on revenues or expenditures.

0.00

This rule does not impact the current biennial.

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:

There are no costs allocated or attributed those in receipt of private duty nursing services.

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**

Yes. This rule requires authorization of private duty nursing services be obtained prior to the start of such services. Prior authorization is needed in order to establish medical necessity.

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**

OAC 5160-12-02.3 require services to be medically necessary as determined by an attending physician and for such services to be included in individual's person-centered plan when applicable.