

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

Agency Name

Division

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5160-12-02

Rule Number

AMENDMENT

TYPE of rule filing

Rule Title/Tag Line

**Private duty nursing services: provision requirements,
coverage and service specification.****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, 5160.70**
6. State the reason(s) for proposing (i.e., why are you filing,) this rule:

This rule is being proposed for amendment to: 1) to allow the Department of Developmental Disabilities (DODD) to prior authorize private duty nursing services for individuals enrolled on a DODD administered waiver; 2) to clarify when PDN may be provided by a relative living in the home; 3) to clean up formatting and typographical errors; 4) to clarify prior authorization procedures for individuals enrolled on a managed care plan; and 5) remove references to modifiers (U5 and U6) no longer in use in relationship to PDN services.

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. Paragraph (A)(4) was deleted given that it was blank;
2. In Paragraph (B)(4), language was added to further clarify the residence of the provider is not excluded when the residence of the provider is the same as the individual and all other requirements of Chapter 5160-12 of the Administrative Code are met;
3. Paragraph G5 is being revised to add a possessive apostrophe and the word, "process" to the paragraph for clarity purposes;
4. Paragraph (I)(3)(b) is being revised to correct a rule reference (OAC 5160-3-09 to 5160-3-08);
5. Paragraph (I)(4) is being revised to remove a reference to the use of the U5 modifier, as the modifier is no longer in use;
6. Paragraph (I)(5) is being revised to remove the extra punctuations (two periods), to clarify the role of managed care, and to incorporate provisions that would allow the Ohio Department of Developmental Disabilities (DODD) to prior authorize private duty nursing services;
7. Paragraph (J)(4) is being revised to remove references to the U6 modifier as the modifier is no longer in use; and
8. Paragraph (J)(5) is being amended to clarify the role of managed care, to incorporate provisions to allow DODD to prior authorize private duty nursing services [J5(a) through (d)], and to update terminology used by ODM ("all services plan" to "person-centered plan") for consistency purposes to align with similar language used in 5160 Chapter 45 and 46.

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 home health or private duty nursing.

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**

PDN requires prior authorization obtained in accordance with rule 5160-12-02.3 of the Administrative Code 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 5160-12-01, 5160-12-02, and 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 if applicable.