

Rule Summary and Fiscal Analysis

Part A - General Questions

Rule Number: 5160-12-02

Rule Type: Amendment

Rule Title/Tagline: Private duty nursing 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 5162.03, 5164.02 and 5164.70
6. **What are the reasons for proposing the rule?**

The rule aligns Ohio policy with changes made in the Cares Act regarding medicare certified home health agencies.
7. **Summarize the rule's content, and if this is an amended rule, also summarize the rule's changes.**

Ohio Administrative Code Rule 5160-12-02 outlines guidelines for coverage of private duty nursing services, including benefit limitations. Changes in the rule align private

duty nursing changes with changes in federal guidelines enacted in the Cares Act and with proposed changes in home health policy.

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 amendments provide flexibility for providers but are not expected to impact utilization of private duty nursing 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 5160-12-02 limits individuals who can provide services to RNs and LPNs. Note that this is an existing requirement and is not impacted by this amendment.

- 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 Rule 5160-12-02 requires the report of information to obtain prior authorization of services for Medicaid reimbursement.

- 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 changes instead provide additional flexibility to providers which may decrease costs 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? 5

Ohio Administrative Code Rule 5160-12-02(G) is amended to replace "cannot be" with "is not" so that the rule says "...nurse is not"

Ohio Administrative Code Rule 5160-12-02(H)(2) is amended to replace "must" with "will" so that the rule says "...nurse will...."

Ohio Administrative Code Rule 5160-12-02(I)(2) is amended to replace "Requires" with "needs" so that the rule says "(2) Needs, as ordered...."

Ohio Administrative Code Rule 5160-12-02(I)(2) is amended to delete "...cannot be" of the rule now says "Services for habilitative care as defined in paragraph (D)(1) of this rule are inappropriate...."

Ohio Administrative Code Rule 5160-12-02(J)(2) is amended to replace "requires" with "needs" so that the rule says "...adult needs, as...."