

## Rule Summary and Fiscal Analysis

### Part A - General Questions

**Rule Number:** 5160-40-01

**Rule Type:** Amendment

**Rule Title/Tagline:** Medicaid home and community-based services program - individual options waiver.

**Agency Name:** Ohio Department of Medicaid

**Division:**

**Address:** 50 Town St 4th floor Columbus OH 43218-2709

**Contact:** Tommi Potter **Phone:** 614-752-3877

**Email:** tommi.potter@medicaid.ohio.gov

#### I. Rule Summary

1. Is this a five year rule review? No
  - A. What is the rule's five year review date? 5/1/2022
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? 5166.02
5. What statute(s) does the rule implement or amplify? 5164.25, 5162.35, 5166.20, 5166.04
6. What are the reasons for proposing the rule?

This rule is being filed to remove two services from and add new services to the Individual Options waiver.

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

The purpose of this rule is to establish the individual options waiver as a component of the Medicaid home and community-based services program pursuant to sections

5166.02 and 5166.20 of the Revised Code. The following changes were made to the proposed rule:

Paragraph (F) was amended to delete adult foster care and adult family living as available services and to add shared living, waiver nursing delegation and participant-directed homemaker/personal care as new services under the waiver.

- 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. 121.71 to 121.76, please explain the basis for the exemption and how an individual can find the referenced material.**

This rule incorporates one or more references to another rule or rules of the Ohio Administrative Code. This question is not applicable to any incorporation by reference to another OAC rule because such reference is exempt from compliance with ORC 121.71 to 121.74 pursuant to ORC 121.76(A)(3).

This rule incorporates one or more references to the Ohio Revised Code. This question is not applicable to any incorporation by reference to the ORC because such reference is exempt from compliance with ORC 121.71 to 121.74 pursuant to ORC 121.76(A) (1).

This rule incorporates one or more dated references to the U.S. Code. This question is not applicable to any dated incorporation by reference to the U.S. Code because such reference is exempt from compliance with RC 121.71 to 121.74 in accordance with RC 121.75(A).

- 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. As a result of this proposed rule, please estimate the increase / decrease in revenues or expenditures affecting this agency, or the state generally, in the current biennium or future years. If the proposed rule is likely to have a different fiscal effect in future years, please describe the expected difference and operation.**

This will increase expenditures.

\$17 Million

The Ohio Department of Developmental Disabilities estimates that the filing of this rule package will cost an estimated \$17 million to add the new and replacement waiver services. The change to this rule will not have an impact on the budget of the Ohio Department of Medicaid. A waiver amendment was submitted to the Centers for Medicare and Medicaid (CMS) to add Shared Living to the Individual Options waiver as a replacement service for Adult foster care and Adult family living services. Participant-directed Homemaker/personal care is being carved out of Routine Homemaker/personal care and will be funded separately. Waiver nursing delegation will be added as a new service available under the waiver. The proposed effective date of the amendment is January 1, 2018.

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

The estimated cost of compliance will vary for the County Boards of Developmental Disabilities (CBsDD). Each CBDD is responsible for the non-federal share of the costs of providing services to individuals with developmental disabilities within their county. The cost to the county will be impacted by the total number of individuals enrolled in home and community-based waivers in their county.

**13. Does the rule increase local government costs? (If yes, you must complete an RSFA Part B). Yes**

**14. Does the rule regulate environmental protection? (If yes, you must complete an RSFA Part C). No**

**III. Common Sense Initiative (CSI) Questions**

**15. Was this rule filed with the Common Sense Initiative Office? No**

**16. 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**

The Ohio Department of Developmental Disabilities filed rules pertaining to the waiver services under Chapter 5123:2-9 of the Administrative Code. Business Impact Analyses (BIAs) # 684761 and 691765 was assigned to the rule package and contains information pertaining to impact. The Ohio Department of Medicaid rules in this package are authorization rules for the DODD rules referenced in BIAs#684761 and 691765.

- 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**

## Rule Summary and Fiscal Analysis

### Part B - Local Governments Questions

**1. Does the rule increase costs for:**

<b>A. Public School Districts</b>	No
<b>B. County Government</b>	Yes
<b>C. Township Government</b>	No
<b>D. City and Village Governments</b>	No

**2. Please estimate the total cost, in dollars, of compliance with the rule for the affected local government(s). If you cannot give a dollar cost, explain how the local government is financially impacted.**

The cost of compliance will vary for each County Board of Developmental Disabilities (CBDD). The County Boards of Developmental Disabilities are responsible for paying the non-federal share of waiver services in their counties. This amount may vary depending on the size of the county and the number of individuals enrolled in a waiver in each county. The Ohio Department of Developmental Disabilities projects that the non-federal share of funds will increase with the creation of the new and replacement services available under the waiver.

**3. Is this rule the result of a federal government requirement? No**

- A. If yes, does this rule do more than the federal government requires? *Not Applicable***
- B. If yes, what are the costs, in dollars, to the local government for the regulation that exceeds the federal government requirement?**

*Not Applicable*

**4. Please provide an estimated cost of compliance for the proposed rule if it has an impact on the following:**

**A. Personnel Costs**

Personnel costs estimate for the proposed rule will vary for each County Board of Developmental Disabilities. The CBDDs are responsible for paying the non-federal share of waiver services in their counties. This amount may vary

depending on the size of the county and the number of individuals enrolled in a waiver in each county.

**B. New Equipment or Other Capital Costs**

New Equipment or Other Capital costs estimate for the proposed rule will vary for each County Board of Developmental Disabilities. The CBDDs are responsible for paying the non-federal share of waiver services in their counties. This amount may vary depending on the size of the county and the number of individuals enrolled in a waiver in each county.

**C. Operating Costs**

Operating costs for the proposed rule will vary for each County Board of Developmental Disabilities. The CBDDs are responsible for paying the non-federal share of waiver services in their counties. This amount may vary depending on the size of the county and the number of individuals enrolled in a waiver in each county.

**D. Any Indirect Central Service Costs**

Any Indirect Central Service costs for the proposed rule will vary for each County Board of Developmental Disabilities. The CBDDs are responsible for paying the non-federal share of waiver services in their counties. This amount may vary depending on the size of the county and the number of individuals enrolled in a waiver in each county.

**E. Other Costs**

Other costs for the proposed rule will vary for each County Board of Developmental Disabilities. The CBDDs are responsible for paying the non-federal share of waiver services in their counties. This amount may vary depending on the size of the county and the number of individuals enrolled in a waiver in each county.

**5. Please explain how the local government(s) will be able to pay for the increased costs associated with the rule.**

The County Boards of Developmental Disabilities are responsible for paying the non-federal share of waiver services in their counties. This amount may vary depending on the size of the county and the number of individuals enrolled in a waiver in each county. The Ohio Department of Developmental Disabilities estimates that the non-federal share of funds will increase with the creation of the new and replacement services available under the waiver.

**6. What will be the impact on economic development, if any, as the result of this rule?**

The proposed rule will not have an impact on economic development.