

## 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:**

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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? 7/28/2020
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? 5166.02
5. What statute(s) does the rule implement or amplify? 5164.25, 5166.04, 5166.20, 5162.35
6. What are the reasons for proposing the rule?

This rule is being proposed for amendment to update policy related to the administration of Ohio's intermediate care facility for individuals with an intellectual disability level of care HCBS waiver programs, and to make permanent during the ongoing COVID-19 public health emergency those emergency rule changes resulting from Executive Order 2020-23D.

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

Rule 5160-40-01, entitled Medicaid home and community-based services program-individual options waiver. Ohio Administrative Code (OAC) rule 5160-40-01 describes certification and licensure requirements for providers of home and community-based services approved under the Individual Options waiver.

As a result of flexibilities under the Appendix K applications submitted and approved by the Centers for Medicare and Medicaid (CMS) on May 13, 2020, the Ohio Department of Medicaid (ODM) is proposing to retain the ability of the Department of Developmental Disabilities (DODD) to deem any provider who also holds appropriate certificate with ODM and the Ohio Department of Aging (ODA). To be eligible for deeming by DODD, providers must be approved by ODM or certified by ODA to provide the same or similar services offered under each of the three DODD-administered waiver programs.

**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. 121.75, 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 121.75(A)(1)(d).

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 121.75(A)(1)(a).

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)(2)(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. 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

N/A-No impact to revenues or expenditures in the current biennium is anticipated as a result of this rule.

- 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 (county boards). Each county board 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 (HCBS) 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**
- 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.**

N/A

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

- 16. Was this rule filed with the Common Sense Initiative Office? No**
- 17. 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**
  - 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

**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? No
  - A. How many new regulatory restrictions do you propose adding?  
Not Applicable
  - B. How many existing regulatory restrictions do you propose removing?  
Not Applicable

## 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. The county boards 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.

**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 cost estimates for the proposed rule will vary for each county board. The county boards 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 cost estimates for the proposed rule will vary for each county board. The county boards 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. The county boards 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. The county boards 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. The county boards 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 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.

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

There is no anticipated impact on economic development as a result of this rule.