

Rule Summary and Fiscal Analysis

Part A - General Questions

Rule Number: 5160-41-17

Rule Type: Amendment

Rule Title/Tagline: Medicaid home and community-based services program - self-empowered life funding 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?** 10/1/2019
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?**

Ohio Administrative Code (OAC) rule 5160-41-17 authorizes the Department of Developmental Disabilities (DODD) to oversee the day-to-day operations of the Medicaid Self-Empowerment Life Funding (SELF) waiver program for individuals with intellectual and developmental disabilities. This rule currently sets forth definitions, enrollment criteria, benefit package components, individual service plan requirements, free choice of provider provisions, and due process rights.

As benefit package components are authorized by the Centers for Medicare and Medicaid (CMS) and are administratively overseen by the Department of Medicaid (ODM) outlining the components of the benefit package in the SELF waiver OAC is duplicative and creates additional administrative processes to amend each time DODD and stakeholders revise the benefits offered under the waiver program. Therefore, this rule as amended proposes to remove current subparts of paragraph (F) and delineate that services may be found in the DODD OAC chapters as well as the federally approved waiver application.

Eight definitions have been removed as they are not cited in the rule language, other than in paragraph (B) Definitions.

Additionally, content in the current OAC language relative to reserved capacity is out dated and must be removed to reflect the currently approved federal SELF waiver application.

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 Self-Empowered Life Funding (SELF) waiver as a component of the Medicaid home and community-based (HCBS) program pursuant to sections 5166.02 and 5166.20 of the Ohio Revised Code.

Ohio Administrative Code (OAC) rule 5160-41-17 authorizes the Department of Developmental Disabilities (DODD) to oversee the day-to-day operations of the Medicaid SELF waiver program for individuals with intellectual and developmental disabilities. This rule currently sets forth definitions, enrollment criteria, benefit package components, individual service plan requirements, free choice of provider provisions, and due process rights.

This rule as amended proposes to remove current subparts of paragraph (F) and delineate that services may be found in the DODD OAC chapters as well as the federally approved waiver application. The amended rule also eliminates the definitions of "adult," "agency with choice," "budget authority," "child," "co-employer," "common law employer," "employer authority," and "financial management services" as these definitions are not used elsewhere in current rule language. Lastly, the federally approved waiver application specifies reserve capacity of waiver slots in the event of hearing and waiting list decisions which lead to an individual's enrollment on to the waiver program. Current paragraph (E)(3) specifies waiver reserve capacity which is no longer applicable as it has been removed from the federally approved application. This has been removed for accuracy.

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 have no impact on revenues or expenditures.

\$0

Not applicable

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**

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**
 - 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:

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