

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

Agency Name

Division

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**5160-42-01**

Rule Number

**AMENDMENT**

TYPE of rule filing

Rule Title/Tag Line

**Medicaid home and community-based services program - level one waiver.****RULE SUMMARY**1. Is the rule being filed for five year review (FYR)? **Yes**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: **5166.02**5. Statute(s) the rule, as filed, amplifies or implements: **5166.04, 5166.20, 5162.35, 5164.25**

6. State the reason(s) for proposing (i.e., why are you filing,) this rule:

This rule is being filed for the five year review process and to include new services to the Level One waiver.

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:

The purpose of this rule is to establish the Level One 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:

1. References to the Ohio Department of Job and Family Services were changed to the Ohio Department of Medicaid as needed.
2. References to individuals with mental retardation were changed to individuals with intellectual disabilities.
3. Paragraphs (C), (D) and (E) were amended to change enrollment and eligibility language.
4. Paragraph (F) was amended to delete supported employment as an available service and to add career planning, group employment support, individual employment support and money management as new services under the waiver.
5. Paragraphs (G), (H), (I), (J) and (K) were updated to address limitations, current practices and rule references.

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 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).

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:

N/A

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: **2/10/2017**

(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

The Ohio Department of Developmental Disabilities estimates that the filing of this rule will have no impact on their budget. A waiver amendment was submitted to the Centers for Medicare and Medicaid (CMS) to add Group Employment Support, Individual Employment Support and Career Planning to the Level One waiver as replacement services for Supported Employment-Community and Supported Employment-Enclave. The Money Management service is currently a task that is

provided under the Homemaker Personal Care (HPC) service. This task is being carved out of HPC and will be funded separately.

14. Identify the appropriation (by line item etc.) that authorizes each expenditure necessitated by the proposed rule:

Fund 3G50 ALI 651655 Medicaid Interagency Pass Through Funds

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:

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.

16. Does this rule have a fiscal effect on school districts, counties, townships, or municipal corporations? **Yes**

You must complete Part B of the Rule Summary and Fiscal Analysis in order to comply with Am. Sub. S.B. 33 of the 120th General Assembly.

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? **No**

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? **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 Analysis (BIA) #654194 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 BIA #654194.

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)**

1. Does the Proposed rule have a fiscal effect on any of the following?

(a) School Districts	(b) Counties	(c) Townships	(d) Municipal Corporations
No	Yes	No	No

2. Please provide an estimate in dollars of the cost of compliance with the proposed rule for school districts, counties, townships, or municipal corporations. If you are unable to provide an estimate in dollars, please provide a written explanation of why it is not possible to provide such an estimate.

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 not increase with the creation of the new services because they will replace existing services.

3. If the proposed rule is the result of a federal requirement, does the proposed rule exceed the scope and intent of the federal requirement? **No**

4. If the proposed rule exceeds the minimum necessary federal requirement, please provide an estimate of, and justification for, the excess costs that exceed the cost of the federal requirement. In particular, please provide an estimate of the excess costs that exceed the cost of the federal requirement for (a) school districts, (b) counties, (c) townships, and (d) municipal corporations.

*Not Applicable.*

5. Please provide a comprehensive cost estimate for the proposed rule that includes the procedure and method used for calculating the cost of compliance. This comprehensive cost estimate should identify all of the major cost categories including, but not limited to, (a) personnel costs, (b) new equipment or other capital costs, (c) operating costs, and (d) any indirect central service costs.

The summary of comprehensive 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.

(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.

6. Please provide a written explanation of the agency's and the local government's ability to pay for the new requirements imposed by the proposed 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 not increase with the creation of the replacement services.

7. Please provide a statement on the proposed rule's impact on economic development.

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