

Rule Summary and Fiscal Analysis

Part A - General Questions

Rule Number: 5160-42-01

Rule Type: Amendment

Rule Title/Tagline: Medicaid home and community-based services program - level one waiver.

Agency Name: Ohio Department of Medicaid

Division:

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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, 5166.04, 5166.20, 5162.35
6. **What are the reasons for proposing the rule?**

This rule is proposed for amendment to include, and modify, services to the Level One (L1) benefit package.
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 establish the L1 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.

This rule's amendment reflects proposed changes to the L1 waiver application with the Centers for Medicare and Medicaid (CMS), for a target effective date of 12/1/2018. The amendment is a culmination of work undertaken by the Department of Developmental Disabilities (DODD) with internal and external stakeholders to add and modify services to the L1 benefit package. Proposed new services include Assistive Technology; modified services include Remote Monitoring and Remote Monitoring Equipment, and PERS. In addition to the modified benefit package, this rule also was revised to provide clarification and language edits.

- 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.**

Paragraph (M) Due process was revised to reflect written testimony received during the public hearing. The following is revised language based on public hearing testimony.

(M)(1): When DODD, ODM, or the county board takes action to approve, deny, or terminate enrollment in the level one waiver, or to deny or change the level and/or type of waiver services delivered to a level one waiver enrollee, the entity

recommending or taking action will provide medicaid due process in accordance with section 5101.35 of the Revised Code through the state fair hearing process, and as specified in Chapters 5101:6-1 to 5101:6-9 of the Administrative Code.

(M)(2): When an individual requests a hearing, as specified in Chapters 5101:6-1 to 5101:6-9 of the Administrative Code, the participation of DODD and the county board is required during the hearing proceedings to justify the decision under appeal.

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.

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The DODD does not expect the Assistive Technology Service to have a fiscal impact on county boards or DODD. The new service is largely a replacement service for the Assistive Technology Assessment subcomponent of the CMS authorized Career Planning Services. Additionally, individuals are currently purchasing equipment through the Personal Emergency Response Systems, Remote Monitoring Equipment and Specialized Medical Equipment and Supplies services. Once Assistive Technology Services is an effective service as offered under the L1 benefit package, individuals will have a new opportunity to received up to 40 hours per waiver eligibility span of "support." This component of Assistive Technology is not required, and DODD does not anticipate a full 40 hours will be authorized, if authorized at all.

- 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 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

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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 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.