

Rule Summary and Fiscal Analysis

Part A - General Questions

Rule Number: 5160-44-11

Rule Type: New

Rule Title/Tagline: Nursing facility-based level of care home and community-based services programs: home delivered meals.

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?**
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?** 5162.03, 5164.02, 5166.02
6. **What are the reasons for proposing the rule?**

This rule is being proposed as new to update policy related to the administration of the Ohio Home Care waiver program and to align policy related to the PASSPORT and Ohio Home Care Waiver programs.

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

Rule 5160-44-11 sets forth the definitions, service description, meal specifications (menu and delivery), limitations and provider qualifications. It replaces language

currently set forth in Rule 5160-46-04 of the Administrative Code. Differences between this rule and rule 5160-46-04 include: adding references to the Ohio Department of Aging (ODA) throughout; revising the service description in Paragraph (A)(2); updating that orders can be written by a licensed health care professional in Paragraph (A)(2); adding new definitions of "special diet" and "therapeutic diet" in Paragraphs (A)(3) and (A)(4) to be more consistent with definitions used by the Ohio Department of Health; clarifying that therapeutic meals, kosher meals and special diets are permitted in Paragraphs (A)(2) and (B)(3)(a); adding an allowance for back-up meals to be authorized when necessary in Paragraph (B)(3); removing provider conditions of participation that are being incorporated into new rule 5160-44-31 of the Administrative Code; adding new delivery and documentation requirements in Paragraphs (E) and (F) governing a variety of home delivered meal providers; specifying service limitations in Paragraph (C); updating training requirements in Paragraph (D) (2); and other grammatical and technical edits throughout.

- 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 (OAC). This question is not applicable to any incorporation by reference to another OAC rule because such reference is exempt from compliance with RC 121.71 to 121.74 pursuant to RC 121.76(A)(3). OAC Medicaid rules may be found online at: <http://codes.ohio.gov/oac/5160>.

This rule incorporates one or more references to the Ohio Revised Code. This question is not applicable to any incorporation by reference to the Ohio Revised Code because such reference is exempt from compliance with RC 121.71 to 121.74 pursuant to RC 121.76(A)(1). The Ohio Revised Code references may be found online at: <http://codes.ohio.gov/orc/51>.

- 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.

0.00

Not applicable.

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

There are no new costs of compliance associated with implementation of this rule. OAC rule 5160-44-11 requires providers of home delivered meals to obtain a food operations license or other applicable license or certificate. Providers must develop, implement and maintain evidence of a training plan for staff that includes orientation and annual continuing education. Administrative costs may be incurred due to the requirement that delivery instructions are provided to the delivery driver and when notification must be made to individuals that the meal will be delayed. Lastly, providers must maintain documentation of meal delivery, clinical records and employee training and licensure information.

13. Does the rule increase local government costs? (If yes, you must complete an RSFA Part B). No

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? Yes

16. Does this rule have an adverse impact on business? Yes

A. Does this rule require a license, permit, or any other prior authorization to engage in or operate a line of business? Yes

OAC rule 5160-44-11 requires providers of home delivered meals to obtain a food operations license or other applicable license or certificate.

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? Yes

Providers must develop, implement and maintain evidence of a training plan for staff that includes orientation and annual continuing education. Administrative costs may be incurred due to the requirement that delivery instructions are provided to the delivery driver and when notification must be made to individuals that the meal will be delayed. Lastly, providers must maintain documentation of meal delivery, clinical records and employee training and licensure information.