

## 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:**

**Address:** 50 Town St 4th floor Columbus OH 43218-2709

**Contact:** Tommi Potter **Phone:** 614-752-3877

**Email:** tommi.potter@medicaid.ohio.gov

#### 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, 5166.02, 5164.02
6. Does the rule implement a federal law or rule in a manner that is more stringent or burdensome than the federal law or regulation requires? No
  - A. If so, what is the citation to the federal law or rule? Not Applicable
7. What are the reasons for proposing the rule?

Per the LSC guidelines, the rule is being filed as rescind/new as more than fifty percent of the rule is being amended with the addition and rescission of text. The reason for proposing the rule is for the expiration of the appendix K authorities.

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

Rule 5160-44-11, entitled "Nursing facility-based level of care home and community-based services programs: home delivered meals," sets forth the definitions, service description, meal specifications (menu and delivery), limitations and provider qualifications for the home delivered meals service.

The proposed changes for this rule are the following:

- o Better defined billable meal types (standard, kosher and therapeutic)
- o Added flexibility to enable an individual to select reduced calorie, reduced sugar, reduced sodium, gluten-free, and vegetarian diet meals due to personal preference.
- o Removed the use of the term special diet.
- o Reformatted person-centered plan element description.
- o Removed provider deeming language.
- o Removed restrictive language.
- o Modified language/reformatted requirements for clarification and grammatical errors.
- o Statutory citation updates.
- o Per the LSC guidelines, the rule is being filed as rescind/new as more than fifty percent of the rule is being amended with the addition and rescission of text.

**9. Does the rule incorporate material by reference? Yes**

**10. 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 (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 121.75.

This rule incorporates one or more references to the Revised Code. Such reference is exempt from compliance with incorporation by reference requirements pursuant to ORC 121.75.

**11. If revising or re-filing the rule, please indicate the changes made in the revised or re-filed version of the rule.**

The change was made in paragraph (A)(2)(c)(i) to modify language for clarification.

## **II. Fiscal Analysis**

- 12. 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.

\$0.00

Not Applicable.

- 13. What are the estimated costs of compliance for all persons and/or organizations directly affected by the 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. Per the LSC guidelines, the rule is being filed as rescind/new as more than fifty percent of the rule is being amended with the addition and rescission of text. The amendments did not add additional adverse impact.

- 14. Does the rule increase local government costs? (If yes, you must complete an RSFA Part B). No**
- 15. Does the rule regulate environmental protection? (If yes, you must complete an RSFA Part C). No**
- 16. If the rule imposes a regulation fee, explain how the fee directly relates to your agency's cost in regulating the individual or business.**

Not Applicable.

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

- 17. Was this rule filed with the Common Sense Initiative Office? Yes**
- 18. 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.

- 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 Restriction Requirements under S.B. 9. Note: This section only applies to agencies described in R.C. 121.95(A).**

- 19. 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 to this rule?**

Not Applicable

- B. How many existing regulatory restrictions do you propose removing from this rule?**

Not Applicable

- C. If you are not removing existing regulatory restrictions from this rule, please list the rule number(s) from which you are removing restrictions.**

Not Applicable

- D. Please justify the adoption of the new regulatory restriction(s).**

Not Applicable