

Rule Summary and Fiscal Analysis

Part A - General Questions

Rule Number: 5160-44-13

Rule Type: New

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

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

This rule is being proposed as new to update policy relating to the administration of the nursing facility-based level of care, home and community-based services waivers.

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

This rule sets forth the service description, authorization process and amount, service limitations and provider requirements. This rule replaces paragraph (E) of OAC rule 5160-46-04 and incorporates Ohio Department of Aging (ODA) waiver service

elements. Differences between this rule and OAC rule 5160-46-04 include adding language in paragraph (C) to allow for modifications to be authorized up to 180 days prior to the individual's transition to the community. OAC references to ODA, definitions and other grammatical/technical changes were made throughout. The provider conditions of participation have been included in OAC rule 5160-44-31, also being filed in this rule package.

- 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.**

OAC 5160-44-13 is being refiled to reflect removal of the words "or the home maintenance/chore service set forth in rule 5160-44-12 of the Administrative Code" from paragraph (A) and the removal of subparagraph (B)(4) "Routine maintenance and repair of a modification." Removal is necessary because rule 5160-44-12 of the Administrative Code is not scheduled for promulgation until July 1, 2019, and consequently routine maintenance and repair of a modification will still be permitted as part of the home maintenance service until that time.

Paragraph (B)(5) "Expenses related to new home builds," is also being removed so as not to prohibit the use of the service to cover expenses related to installation of environmental adaptations as part of building construction.

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 with implementation of this rule in OAC chapter 5160-44. This rule requires providers of home modification services to submit a fixed cost proposal for services. Prior to beginning a job, the provider shall obtain all permits and pre-job inspections, as well as, post job inspection reports as required by law or any home owners association. Lastly, home modification providers must provide documentation that the service was completed in accordance with the agreed upon specifications, that the modification was tested and is in proper working order and that all applicable federal, state and local building codes and accessibility codes are met.

- 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? No**
- 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**

Home modification providers must maintain licensure, insurance and bonding for general contracting services of applicable jurisdictions and provide proof upon request.

- 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**

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