

## Rule Summary and Fiscal Analysis

### Part A - General Questions

**Rule Number:** 5160-44-17

**Rule Type:** Amendment

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

**Agency Name:** Ohio Department of Medicaid

**Division:**

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#### I. Rule Summary

1. **Is this a five year rule review?** Yes
  - A. **What is the rule's five year review date?** 9/22/2023
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?**

The reasons for proposing the rule are for five-year rule review and 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 5160-44-17, entitled "Nursing facility-based level of care home and community-based services programs: out-of-home respite," sets forth the service description, provider qualifications and clinical record keeping requirements for the nursing facility-based home and community services waiver out-of-home respite service.

The proposed changes for this rule are the following:

- o Removed deeming language.
- o Removed restrictive language.
- o Modified language/reformatted requirements for clarification and grammatical errors.
- o Statutory citation updates.

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.**

*Not Applicable*

## **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?**

There are no new costs associated with implementation of this rule in Chapter 5160-44. Out-of-home respite service providers must be a licensed/certified intermediate care facility for individuals with intellectual disabilities, a licensed/certified nursing facility, or another licensed setting approved by ODM or its designee. They must provide for replacement coverage due to theft, property damage and/or personal injury. They must also maintain evidence of completion of twelve hours of in service continuing education every twelve months and program-specific orientation.

**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**

This rule requires out-of-home respite service providers to be a licensed/certified intermediate care facility for individuals with intellectual disabilities, a licensed/certified nursing facility, or another licensed setting approved by ODM or its designee.

**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**

Out-of-home respite providers must provide for replacement coverage due to theft, property damage and/or personal injury.

- 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?** Yes

- A. **How many new regulatory restrictions do you propose adding to this rule?** 0

- B. **How many existing regulatory restrictions do you propose removing from this rule?** 14

5160-44-17 (A) - "Shall" to be removed.

5160-44-17 (A)(1) - "Shall" to be removed.

5160-44-17 (A)(2) - "Shall" to be removed.

5160-44-17 (B) - "Shall" to be removed.

5160-44-17 (C) - "Shall" to be removed.

5160-44-17 (C)(1) - "Shall" to be removed.

5160-44-17 (C)(2) - "Shall" to be removed.

5160-44-17 (C)(2) - "Shall" to be removed.

5160-44-17 (D) - "Shall" to be removed.

5160-44-17 (D)(1) - "Shall" to be removed.

5160-44-17 (D)(2) - "Shall" to be removed.

5160-44-17 (D)(3) - "Shall" to be removed.

5160-44-17 (D)(3)(a) - "Shall" to be removed.

5160-44-17 (D)(3)(a) - "Shall" to be removed.

- C. If you are not removing existing regulatory restrictions from this rule, please list the rule number(s) from which you are removing restrictions.**
- D. Please justify the adoption of the new regulatory restriction(s).**

Not Applicable