

Rule Summary and Fiscal Analysis

Part A - General Questions

Rule Number: 5160-44-17

Rule Type: New

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?** 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 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, provider qualifications and clinical record keeping requirements for the nursing facility-based home and community services waiver out-of-home respite service. It replaces language currently set forth in

paragraph (G) of rule 5160-46-04 of the Administrative Code. Differences between this rule in OAC rule 5160-46-04 include updating the number of staff training hours from 8 to 12 to align with other hands-on service provider types. The conditions of participation were removed and incorporated into OAC rule 5160-44-31, also filed with this rule package. The clinical record requirements were updated along with provider requirements. References were added to ODA and other technical edits were made 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 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.

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

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.