

Rule Summary and Fiscal Analysis

Part A - General Questions

Rule Number: 5160-44-26

Rule Type: Amendment

Rule Title/Tagline: Nursing facility-based level of care home and community-based services programs: community transition 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 5160-44-26, entitled "Nursing facility-based level of care home and community-based services programs: community transition," sets forth the definitions of services, provider requirements and specifications for community transition services.

The proposed changes for this rule are the following:

- o Removed deeming language.
- o Broadened examples of allowable basic household expenses.
- o Added CMS requirement language stating the service does not include furnishing arrangements that are owned or leased by a waiver provider where the provision of these items are inherent to the service they are already providing.
- o Removed the flexibility allowing signature to be obtained at a later date.
- 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.

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?

Costs of compliance with this rule are those associated with the process of becoming an ODM-approved or ODA-certified community transition service provider. Providers shall be either:

An ODM-approved or ODA-certified waiver agency provider;

An ODM-approved or ODA-certified non-agency provider;

A transition coordination service provider under contract with ODM that is also an ODM-approved or ODA-certified waiver agency or non-agency provider; or

An ODA-certified assisted living waiver service provider.

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

Providers shall be either:

An ODM-approved or ODA-certified waiver agency provider;

An ODM-approved or ODA-certified non-agency provider;

A transition coordination service provider under contract with ODM that is also an ODM-approved or ODA-certified waiver agency or non-agency provider; or

An ODA-certified assisted living waiver service provider.

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? No
- 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? 9

5160-44-26 (A)(1)(j) - "Shall" to be removed.

5160-44-26 (A)(2)(b) - "Shall" to be removed.

5160-44-26 (A)(3) - "Shall" to be removed.

5160-44-26 (A)(4) - "Shall" to be removed.

5160-44-26 (C)(1) - "Shall" to be removed.

5160-44-26 (C)(2) - "Shall" to be removed.

5160-44-26 (D) - "Shall" to be removed.

5160-44-26 (E) - "Shall" to be removed.

5160-44-26 (F) - "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