

Rule Summary and Fiscal Analysis

Part A - General Questions

Rule Number: 5160-44-27

Rule Type: Amendment

Rule Title/Tagline: Nursing facility-based level of care home and community-based services programs: home care attendant 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?** 1/1/2024
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, 5166.30
5. **What statute(s) does the rule implement or amplify?** 5162.03, 5164.02, 5166.30, 5166.301, 5166.302, 5166.303, 5166.304, 5166.305, 5166.306, 5166.307, 5166.308, 5166.309, 5166.3010
6. **What are the reasons for proposing the rule?**

This rule is being proposed for amendment to update policy related to the administration of Ohio's nursing facility level of care HCBS waiver programs, and to make permanent during the ongoing COVID-19 public health emergency those emergency rule changes resulting from Executive Order 2020-23D.

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

This rule sets forth the definitions related to the rule, service description, individual expectations, provider qualifications and requirements, and clinical record keeping requirements. The proposed amendment permits the Ohio Department of Medicaid and the Ohio Department of Aging to deem any ODM, ODA or Ohio Department of Developmental Disabilities waiver provider as having satisfied ODM or ODA requirements for same or similar services. Additionally, it is amended to reflect that the face-to-face RN visit may be conducted by telephone or electronically, unless the individual's needs necessitate a face-to-face visit. First aid and CPR certification may be from a class that may be solely internet-based and that does not have to include hands-on training by a certified instructor and a successful return demonstration of what was learned in the course. Paragraph (H) is also amended to reflect that if the individual is unable to provide the signature at the time of service, the individual is to submit an electronic signature or standard signature via regular mail, or otherwise provide a signature in no instance any later than at the next face-to-face visit with the provider. Typos and dates are updated.

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. 121.75, please explain the basis for the exemption and how an individual can find the referenced material.

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

This rule incorporates one or more references to another rule or rules of the Administrative Code. Such reference is exempt from compliance with incorporation by reference requirements pursuant to ORC 121.75(A).

This rule incorporates one or more references to the Code of Federal Regulations (CFR). This question is not applicable to those references in this rule because such references are exempt from compliance with ORC 121.74 to 121.74 pursuant to ORC 121.75

This rule incorporates one or more dated references to an ODM form or forms. Each cited ODM form is dated and is generally available to persons affected by this rule via the "Resources/Publication/Forms Central" link on the Ohio Department of Medicaid web site (<http://medicaid.ohio.gov/>) in accordance with RC 121.75.

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. **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.

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 associated with the changes to this rule. This rule requires home care attendant providers to submit an ODM-specified form as part of the provider application process. It also requires the provider to submit evidence of the following: successful completion of a competency evaluation and/or training program, certified vocational program and training specific to the services to be provided. The provider must also submit a written attestation of training, instruction and skills testing. Providers must complete first aid certification and CPR certification and must complete at least 12 hours of continuing education annually. Home care attendant services providers must maintain clinical documentation in their place of business and within the individual's home. When the home care attendant provider secures an RN, the RN must possess a current valid and unrestricted license with the Ohio board of nursing.

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**

15. **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

16. Was this rule filed with the Common Sense Initiative Office? Yes

17. 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

When the home care attendant provider secures an RN, the RN must possess a current valid and unrestricted license with the Ohio board of nursing.

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

This rule requires home care attendant providers to submit an ODM-specified form as part of the provider application process. It also requires the provider to submit evidence of the following: successful completion of a competency evaluation and/or training program, certified vocational program and/or training specific to the services to be provided. The provider must also submit a written attestation of training, instruction and skills testing. Providers must complete first aid certification and CPR certification and must complete at least 12 hours of continuing education annually. Home care attendant services providers must maintain clinical documentation in their place of business and within the individual's home.

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 Restrictions (This section only applies to agencies indicated in R.C. 121.95 (A))

18. 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?

Not Applicable

B. How many existing regulatory restrictions do you propose removing?

Not Applicable