

Rule Summary and Fiscal Analysis

Part A - General Questions

Rule Number: 5160-44-27

Rule Type: New

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:

Address: 50 Town St 4th floor Columbus OH 43218-2709

Contact: Tommi Potter

Email: tommi.potter@medicaid.ohio.gov **Phone:** 614-752-3877

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?** 5166.30, 5166.02
5. **What statute(s) does the rule implement or amplify?** 5162.03, 5166.3010, 5166.309, 5166.308, 5166.307, 5166.306, 5166.305, 5166.304, 5166.303, 5166.302, 5166.301, 5166.30, 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 definitions related to the rule, service description, individual expectations, provider qualifications and requirements, and clinical record keeping requirements. This rule is replacing rule 5160-46-04.1 of the Administrative Code. Differences between rule 5160-44-27 and 5160-46-04.1 include removing provider conditions of participation that have been incorporated into rule 5160-44-31; adding references to the Ohio Department of Aging(ODA), adding new provider qualifications for independent providers consistent with the Governor's Office of Health Transformation's workforce development initiative, as well as, ODA provider requirements; updating clinical and in-home record keeping requirements and other technical and grammatical edits 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 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(E).

This rule incorporates one or more dated references to the Code of Federal Regulations (CFR). This question is not applicable to any dated incorporation by reference to the CFR because such reference is exempt from compliance with RC 121.71 to 121.74 in accordance with RC 121.75(D). The eCFR is available online at: <http://www.ecfr.gov/cgi-bin/ECFR?page=browse>

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 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**

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

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.