

Rule Summary and Fiscal Analysis

Part A - General Questions

Rule Number: 5160-44-31

Rule Type: Amendment

Rule Title/Tagline: Ohio department of medicaid (ODM)-administered waiver programs: provider conditions of participation.

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?** 2/1/2025
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. **What are the reasons for proposing the rule?**

This rule is being proposed for amendment to update policy related to the administration of the Ohio Department of Medicaid-administered 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 Ohio Department of Medicaid (ODM) provider conditions of participation for services outlined in OAC Chapters 5160-44 and 5160-46. It sets forth what a service provider shall and shall not do while providing services to individuals. The proposed amendment clarifies that required provider trainings are limited to on-line and web-based trainings. Additionally, paragraph (B)(14)(c) adds that if the individual is unable to provide the signature required by this paragraph at the time of the 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. Miscellaneous citations 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 references to a federal act or acts. 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. Specifically, the Health Insurance Portability and Accountability Act of 1996 (HIPAA) is available at: <https://aspe.hhs.gov/report/health-insuranceportability-and-accountability-act-1996>.

- 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 associated with implementation of this rule.

Providers are required to maintain an active, valid medicaid provider agreement as set forth in rule 5160-1-17.2 of the Administrative Code. ODM-administered waiver service providers are required to notify ODM or its designee within 24 hours when the provider is aware of issues that may affect the individual and/or the provider's ability to render services as directed in their person-centered services plan. Providers may incur costs related to the maintenance and retention of records related to services provided.

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

Providers are required to maintain an active, valid medicaid provider agreement as set forth in rule 5160-1-17.2 of the Administrative Code. ODM-administered waiver service providers are required to notify ODM or its designee within 24 hours when the provider is aware of issues that may affect the individual and/or the provider's ability to render services as directed in their person-centered services plan.

- 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**

Providers may incur costs related to the maintenance and retention of records related to services provided.

- 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