

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 (ODM) administered HCBS waiver programs and the ongoing COVID-19 public health emergency.

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. Paragraph (C) regarding electronic visit verification (EVV) is being modified to apply to all ODM-administered waivers instead of just the Ohio Home Care Waiver. Paragraph (F) is being amended to narrow the restrictions regarding who can be an ODM-administered waiver service provider if they are designated to serve or make decisions for an individual in any capacity involving declaration of a power of attorney, guardianship, or as an authorized representative or representative payee.

- 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 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.

This rule incorporates one or more references to another rule or rules of the Ohio Revised Code (ORC). This question is not applicable to any incorporation by reference to another ORC rule because such reference is exempt from compliance with RC 121.71 to 121.74 pursuant to RC 121.75.

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.

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-andaccountability-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.

N/A

Not Applicable

- 12. What are the estimated costs of compliance for all persons and/or organizations directly affected by the rule?**

Not Applicable

- 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.

- 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**

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.

- 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