

## Rule Summary and Fiscal Analysis

### Part A - General Questions

**Rule Number:** 5160-44-31

**Rule Type:** New

**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. **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 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 Ohio Department of Medicaid (ODM) provider conditions of participation for services outlined in OAC Chapter 5160-44. It sets forth what a service provider shall and shall not do while providing services to individuals. This rule is

similar to OAC rule 5160-45-10 but includes conditions related to rules 5160-44-13, 5160-44-22, 5160-44-27 and 5160-44-17 (also included in this rule package).

- 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 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>.

This rule incorporates one or more dated references to a federal act or acts. This question is not applicable to any dated incorporation by reference to a federal act because such reference is exempt from compliance with RC 121.71 to 121.74 pursuant to RC 121.75(C). Specifically, the Health Insurance Portability and Accountability Act of 1996 (HIPAA) is available at: <https://aspe.hhs.gov/report/health-insurance-portability-and-accountability-act-1996>

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>

- 10. If revising or re-filing the rule, please indicate the changes made in the revised or re-filed version of the rule.**

In response to stakeholder feedback, minor edits were made to paragraph (B)(8)(c) to clarify the provider requirement related to notification to the individual and case manager when the provider is not available to work. This is not a substantial change, but a clarification of the requirement.

## **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 associated with implementation of this rule. 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**

### **III. Common Sense Initiative (CSI) Questions**

- 15. Was this rule filed with the Common Sense Initiative Office? No**
- 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? No**
  - 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.