

**Rule Summary and Fiscal Analysis (Part A)****Ohio Department of Medicaid**

Agency Name

Division

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**5160-45-03**

Rule Number

**NEW**

TYPE of rule filing

Rule Title/Tag Line

**Ohio department of medicaid (ODM) -administered waiver program: individual rights and responsibilities.****RULE SUMMARY**

1. Is the rule being filed for five year review (FYR)? **No**
2. Are you proposing this rule as a result of recent legislation? **No**
3. Statute prescribing the procedure in accordance with the agency is required to adopt the rule: **119.03**
4. Statute(s) authorizing agency to adopt the rule: **5166.02**
5. Statute(s) the rule, as filed, amplifies or implements: **5162.03, 5164.02, 5166.02**

6. State the reason(s) for proposing (i.e., why are you filing,) this rule:

This rule is being promulgated as a result of five-year review. It is replacing current rule 5160-45-03 which is being rescinded.

7. If the rule is an AMENDMENT, then summarize the changes and the content of the proposed rule; if the rule type is RESCISSION, NEW or NO CHANGE, then summarize the content of the rule:

This rule sets forth the rights and responsibilities of individuals who are enrolled on

an Ohio Department of Medicaid (ODM) -administered waiver program. This rule offers the same opportunities for choice and control of provider as the rule it replaces, and holistically, offers more clarity regarding an individual's rights and responsibilities under the ODM-administered waiver program. For example, an individual has the right to:

- (a) Be treated with dignity and respect.
- (b) Be protected from abuse, neglect, exploitation and other threats to personal health, safety and well-being.
- (c) Appoint an authorized representative to act on his or her behalf.
- (d) Receive waiver services in a person-centered manner that maximizes personal independence.
- (e) Choose his or her case management agency and case managers, and receive the full range of assistance and support from those entities as set forth in this rule.
- (f) Make informed choices regarding the services and supports he or she receives, and from whom.
- (g) Obtain the results of any criminal record checks about current providers or provider applicants.
- (h) Be assured confidentiality.
- (i) Be informed about the right to appeal decisions.

Additionally, upon enrollment in an ODM-administered waiver, the individual must sign an ODM-administered waiver agreement accepting certain responsibilities including, but not limited to the following:

- (a) Participate in, and cooperate during assessments to determine eligibility and enrollment in the waiver and service needs.
- (b) Decide who, besides the case manager, will participate in the service planning process.
- (c) Participate in, and cooperate with, the case manager and team in the development and implementation of all services plans and plans of care.
- (d) Participate in the recruitment, selection and dismissal of his or her providers.
- (e) Participate in the development and maintenance of back-up plans that meet the needs of the individual.
- (f) Work with the case manager and/or physician and the provider to identify and secure additional training within the provider's scope of practice in order to meet

the individual's specific needs.

(g) Validate service delivery.

(h) Utilize services in accordance with the approved all services plan.

(i) Communication personal preferences about duties, tasks and procedures to be performed.

If the individual fails to uphold the responsibilities set forth in this rule, or the health and welfare of an individual receiving services from a non-agency provider cannot be assured, then the individual may be required to receive services from only agency providers. The individual will be afforded notice and hearing rights.

8. If the rule incorporates a text or other material by reference and the agency claims the incorporation by reference is exempt from compliance with sections 121.71 to 121.74 of the Revised Code because the text or other material is **generally available** to persons who reasonably can be expected to be affected by the rule, provide an explanation of how the text or other material is generally available to those persons:

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).

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).

This rule incorporates one or more references to another rule or rules of the Ohio Administrative Code. 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).

9. If the rule incorporates a text or other material by reference, and it was **infeasible** for the agency to file the text or other material electronically, provide an explanation of why filing the text or other material electronically was infeasible:

Not applicable.

10. If the rule is being **rescinded** and incorporates a text or other material by reference, and it was **infeasible** for the agency to file the text or other material,

provide an explanation of why filing the text or other material was infeasible:

*Not Applicable.*

11. If **revising** or **refiling** this rule, identify changes made from the previously filed version of this rule; if none, please state so. If applicable, indicate each specific paragraph of the rule that has been modified:

*Not Applicable.*

12. Five Year Review (FYR) Date:

(If the rule is not exempt and you answered NO to question No. 1, provide the scheduled review date. If you answered YES to No. 1, the review date for this rule is the filing date.)

NOTE: If the rule is not exempt at the time of final filing, two dates are required: the current review date plus a date not to exceed 5 years from the effective date for Amended rules or a date not to exceed 5 years from the review date for No Change rules.

### **FISCAL ANALYSIS**

13. Estimate the total amount by which *this proposed rule* would **increase / decrease** either **revenues / expenditures** for the agency during the current biennium (in dollars): Explain the net impact of the proposed changes to the budget of your agency/department.

This will have no impact on revenues or expenditures.

\$0.00

Enactment of this rule will not change the agency's projected budget during the current biennium.

14. Identify the appropriation (by line item etc.) that authorizes each expenditure necessitated by the proposed rule:

Not applicable.

15. Provide a summary of the estimated cost of compliance with the rule to all directly affected persons. When appropriate, please include the source for your information/estimated costs, e.g. industry, CFR, internal/agency:

There are no new costs for providers and no new costs for individuals enrolled in an

ODM-administered waiver program.

16. Does this rule have a fiscal effect on school districts, counties, townships, or municipal corporations? **No**

17. Does this rule deal with environmental protection or contain a component dealing with environmental protection as defined in R. C. 121.39? **No**

**S.B. 2 (129th General Assembly) Questions**

18. Has this rule been filed with the Common Sense Initiative Office pursuant to R.C. 121.82? **No**

19. Specific to this rule, answer the following:

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? **No**