

## Rule Summary and Fiscal Analysis

### Part A - General Questions

**Rule Number:** 5160-45-05

**Rule Type:** Rescission

**Rule Title/Tagline:** Ohio department of medicaid (ODM) -administered waiver program: incident management system.

**Agency Name:** Ohio Department of Medicaid

**Division:**

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#### I. Rule Summary

1. **Is this a five year rule review?** Yes
  - A. **What is the rule's five year review date?** 4/15/2019
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?** 5166.02, 5166.11
6. **What are the reasons for proposing the rule?**

This rule is being proposed for rescission and will be replaced by new rule 5160-44-05 to implement aligned nursing facility based home and community based services (HCBS) waiver programs.

7. **Summarize the rule's content, and if this is an amended rule, also summarize the rule's changes.**

OAC rule 5160-45-05 "Ohio department of Medicaid (ODM)-administered waiver program: incident management system," sets forth the definitions, standards and

procedures related to incident reporting for Ohio Department of Medicaid (ODM), their designees, service providers and individuals. It applies to ODM-administered waivers.

8. **Does the rule incorporate material by reference? No**
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.**

*Not Applicable*

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?**

ODM or its designees, and service providers are currently required to report incidents to the waiver case management entity as a condition of doing business with the State. There are no new costs due to rescission of this rule which sets forth a level of reporting and investigative requirements for those entities. ODM cannot estimate the cost of compliance as costs will vary depending on the number of incidents an individual may encounter and that are discovered by ODM, or their designee, or the service provider.

The investigative entity and ODM designees are contracted providers who apply through the request for proposal (RFP) process to become a contracted vendor to perform this work. The providers are aware of the requirements and rate of payment

prior to seeking and signing their contracts with the state. The rate of payment to contractors are negotiated according to the work required by the rule. The rule maintains a level of reporting and investigative requirements for contractors.

The HCBS service providers are also paid rates that are actuarially sound and include an administrative component to cover costs such as those incurred when reporting an incident. The rule maintains a similar level of reporting requirements and is not expected to have a significant adverse impact on the providers' current costs of doing business.

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?** 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

OAC rule 5160-45-05 requires ODM, its designees, and all service providers to report all incidents related to individuals enrolled in an ODM-administered home and community-based services (HCBS) waiver program (Ohio Home Care Waiver). This report of information is a federal requirement and is necessary to ensure the health and safety of individuals enrolled in an HCBS program. Specifically, each rule requires the entities noted above to: take immediate action to ensure the health and welfare of the individual, report the incident immediately upon discovering the incident, and when reporter is a waiver provider who has a supervisor, immediately notify his/her supervisor. The incident report requirements and timeframes are outlined in the rules.

The Care Management (CM) entity is required to verify the above actions were taken to protect the health and welfare of the individual, to address the issues effecting the individual, and to report the incident in the incident management system. If it is discovered that a required action was not taken, the CM entity is required to do so.

The investigative entity (ODM designee), is required to verify the above actions were taken to protect the health and welfare of the individual. If it is discovered that a required action was not taken, the investigative entity is required to do so. At the conclusion of an investigation, the investigative entity shall provide a summary of the investigative findings, and whether the incident was substantiated, unless such action could jeopardize the health and welfare of the individual. The investigative entity shall submit incident data to ODM as requested, and in a format and frequency established by ODM.