

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

Agency Name

Division

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5160-45-10

Rule Number

RESCISSION

TYPE of rule filing

Rule Title/Tag Line

Conditions of participation for Ohio department of job and family services (ODJFS) administered waiver service providers.**RULE SUMMARY**

1. Is the rule being filed for five year review (FYR)? **Yes**
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This rule is being rescinded pursuant to five-year rule review and is being replaced by new rule 5160-45-10.

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 contains the core conditions of participation that a provider must meet in order to furnish Ohio Department of Medicaid (ODM) -administered waiver services.

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 references to the Ohio Revised Code. This question is not applicable to any incorporation by references 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).

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 121.71 to 121.74 pursuant to ORC 121.76 (B)(2).

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: **11/17/2014**

(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

The proposed rescission of this rule will have no impact on the 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:

No new costs.

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? **Yes**

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? **Yes**

Paragraph (A)(1) requires providers to have an active, valid Medicaid provider agreement. Paragraph (A)(2) requires providers to comply with provider service specifications set forth in rules 5160-46-04 and 5160-50-04 of the Administrative Code which, depending upon the service, may include professional licensure/certification.

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? **Yes**

Failure by ODM-administered waiver service providers to meet the requirements set forth in this rule may result in the imposition of sanctions against them including, but not limited to suspension or termination of their Medicaid provider agreement.

C.) Does this rule require specific expenditures or the report of information as a condition of compliance? **Yes**

Paragraph (A)(3) requires providers to comply and maintain documentation of compliance with patient rights standards set forth in the Medicare conditions of participation for home health agencies. Paragraph (A)(7) requires providers to provide information to ODM, its designee and the Centers for Medicare and Medicaid services. Paragraph (A)(8) requires providers to comply with all federal and state laws, including the Health Insurance Portability and Accountability Act regulations and Medicaid confidentiality regulations. Paragraph (A)(9) requires providers to notify ODM and its designee, in writing, within 30 days of changes in address, telephone number, email address and other contact information. Paragraph (A)(10) requires providers to maintain and retain all documentation including, but not limited to, documentation of tasks performed/not performed, arrival/departure times, and dated signatures of the provider and the individual/authorized representative verifying service delivery. Paragraph (A)(12) requires providers to cooperate with ODM and its designee during all provider monitoring activities and assure the availability of information and other documents that may be requested as part of the monitoring activities. Paragraph (A)(13) requires the provider to notify ODM or its designee within 24 hours and provide written documentation within

five calendar days when the provider is aware of issues that may affect service delivery to the individual. Paragraph (A)(15) requires the provider to submit written notification to the individual and ODM or its designee at least 30 calendar days before the anticipated last date of service if the provider is terminating the provision of waiver services to the individual. Paragraphs (E) and (F) require providers to pay applicable federal, state, and local income and employment taxes in compliance with federal, state and local requirements. Non-agency providers must also submit an affidavit annually stating they paid their applicable taxes.