

Rule Summary and Fiscal Analysis

Part A - General Questions

Rule Number: 5160-45-11

Rule Type: Amendment

Rule Title/Tagline: Ohio home care waiver, transitions DD waiver and transitions carve-out waiver programs: exclusionary periods for disqualifying offenses; certificates; and pardons.

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?** 12/8/2017
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?** 5164.341, 5164.342, 5166.02
5. **What statute(s) does the rule implement or amplify?** 109.572, 109.5721, 5162.03, 5164.02, 5164.341, 5164.342, 5166.02
6. **What are the reasons for proposing the rule?**

This rule is being amended as a result of five year review.
7. **Summarize the rule's content, and if this is an amended rule, also summarize the rule's changes.**

This rule sets forth a tiered system of exclusionary periods for disqualifying offenses. The periods range from five years to permanent exclusion depending upon the type

and number of offenses. The rule also sets forth policy regarding pardons under which certain individuals can obtain a Certificate of Qualification for Employment issued by a court of common pleas with competent jurisdiction pursuant to Section 2953.25 of the Revised Code; or a Certificate of Achievement and Employability in an HCBS-related field, issued by the Ohio Department of Rehabilitation and Corrections pursuant to Section 2961.22 of the Revised Code. Proposed changes include updates to Administrative Code cites and commonly used terminology.

- 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 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).

- 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

The proposed rule changes will have no impact on the projected budget during the current biennium.

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

No new costs.

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?** Yes

Per OAC 5160-45-11, in certain circumstances, individuals may be permitted to provide home and community-based services to individuals enrolled on an ODM-administered waiver if they obtain a certificate of achievement and employability, a certificate of qualification for employment or a pardon.

- 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

Applicants, employees of waiver agencies and independent providers of home and community-based services cannot provide services to individuals enrolled on an ODM-administered waiver if, as a result of their criminal records check, it is determined they fall within one of the exclusionary tiers set forth in OAC rule 5160-45-11.

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

Applicants, employees of a waiver agency or independent providers must provide evidence of their receipt of a certificate of achievement and employability, a certificate of qualification for employment or a pardon before they can be considered providers of home and community-based services to individuals enrolled on an ODM-administered waiver program.