

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

Agency Name

Division

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5160-46-04.1

Rule Number

NEW

TYPE of rule filing

Rule Title/Tag Line

Ohio home care waiver program: home care attendant services.**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, 5166.30**5. Statute(s) the rule, as filed, amplifies or implements: **5162.03, 5164.02, 5166.30, 5166.301, 5166.302, 5166.303, 5166.304, 5166.305, 5166.306, 5166.307, 5166.308, 5166.309, 5166.3010**

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

This rule is being proposed for adoption as a result of five-year review. It is replacing existing rule 5160-46-04.1 which is being rescinded.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 service specifications and provider requirements for home care attendant services under the Ohio Home Care Waiver. The content of the rule is not changing. However, requirements are being reordered for clarity, and terminology is being updated (i.e., Ohio Department of Medicaid, individual instead of consumer, etc.).

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:

The 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).

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).

This rule incorporates one or more dated references to an ODM form or forms. Each cited ODM form is dated and is generally available to persons affected by this rule via <http://medicaid.ohio.gov/RESOURCES/Publications/Medicaid/Forms.aspx> in accordance with RC 121.75 (E).

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

Adoption 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 on the Ohio Home Care Waiver resulting from the adoption of this rule. Home care attendant services is primarily intended to be furnished in lieu of continuous nursing services (greater than four hours of state plan private duty nursing and/or waiver nursing services. It is reimbursable at a rate that is lower than private duty nursing and waiver nursing services. To date, utilization has been limited and hasn't reduced nursing service utilization. Presently there are only 45 home care attendants statewide.

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**

Home care attendants must obtain a certificate of completion of either a competency evaluation program approved or conducted by the Ohio Department of Health, or the Medicare competency evaluation for home health aides, and obtain and maintain first aid certification. They must also complete 12 hours of in-service continuing education within a 12-month period. Home care attendants must comply with the individual's specific service instructions and perform a return demonstration upon request of the individual and the authorizing health care professional.

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**

Home care attendants must maintain a clinical record for each individual they

serve. Record requirements include such things as identifying information about the individual, medical history, name and contact information for all licensed health care professionals serving the individual, all services plans, drug and food interactions, allergies and dietary restrictions, advance directives, copies of home care attendant service-related forms, documentation of tasks/services performed/not performed including dated signatures of the provider and individual receiving services verifying service delivery, copies of schedule drug logs, progress notes, documentation of face-to-face RN home care attendant service visits, and discharge summaries. Providers are expected to make this information available to ODM during a compliance review.