

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

Agency Name

Division

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5160-56-04

Rule Number

AMENDMENT

TYPE of rule filing

Rule Title/Tag Line

Hospice services: provider requirements.**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: **5164.02**5. Statute(s) the rule, as filed, amplifies or implements: **5162.03, 5164.70**

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

Five-year review.

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 sets forth the requirements a hospice provider must meet to be eligible to provide Medicaid hospice services.

The changes to the rule are:

1. The term "consumer" is being changed to "individual" throughout the rule.
2. Ohio Administrative Code references are being updated due to the creation of the Ohio Department of Medicaid by Am. Sub. HB 59 of the 130th General Assembly and the subsequent renumbering of rules by the Legislative Services Commission.
3. Revision dates to references to the Code of Federal Regulation (C.F.R.) are being updated.
4. References to an intermediate care facility for the mentally retarded or an ICF-MR are being changed to intermediate care facility for individuals with intellectual disabilities or ICF-IID.
5. Typographical errors are being corrected, and other non-substantive revisions are being made to enhance clarity.

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 Administrative Code. This question is not applicable to any incorporation by reference to another OAC rule because such reference is exempt from compliance with ORC 121.71 to 121.74 pursuant to ORC 121.76(A)(3).

This rule incorporates one or more references to the Ohio Revised Code. This question is not applicable to any incorporation by reference to the ORC because such reference is exempt from compliance with ORC 121.71 to 121.74 pursuant to ORC 121.76(A)(1).

This rule incorporated one or more dated references to federal law. This question is not applicable to any dated incorporation by reference to federal law because such reference is exempt from compliance with R.C. 121.71 to 121.74 in accordance with R.C. 121.75.

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: **12/19/2014**

(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

This proposed 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 should be no cost of compliance for providers to be licensed by the Ohio Department of Health in order to be Medicaid hospice providers according to paragraph (C), as licensure is a requirement for all hospice providers in Ohio regardless of whether they serve Medicaid or non-Medicaid consumers.

The estimated cost for a hospice provider to complete a hospice election form according to paragraph (J) of this rule is approximately \$11.06 to \$12.50 per form. The estimated cost for a hospice provider to furnish a copy of a consumer's advance directive to another Medicaid provider according to paragraph (K) of this rule is approximately \$3.69 to \$6.25 per copy. The estimated cost for a hospice provider to complete a signed agreement with a nursing facility, ICF-IID, or inpatient facility according to paragraph (L) of this rule is approximately \$76.92 per agreement. The estimated cost for a hospice provider to obtain a written certification of terminal illness as specified in paragraph (M) is approximately \$53.34 per certification. The estimated cost to establish a written plan of care for a consumer according to paragraph (O) is approximately \$106.68 per plan, and the estimated cost to update the plan of care is approximately \$26.67 per plan. However, these costs are existing costs of compliance. There are no new costs of compliance as a result of this rule filing.

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 (C) of this rule requires that hospice providers be licensed by the Ohio Department of Health according to ORC Chapter 3712. In addition, paragraph (A) of this rule requires hospice providers to have a Medicaid provider agreement according to OAC rule 5160-1-17.2 to be eligible to provide Medicaid hospice services.

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**

This rule requires Medicaid hospice providers to inform the County Department of Job and Family Services (CDJFS) in writing of any change in an individual's address, and to provide a copy of the individual's hospice election form and advance directives to other Medicaid providers. It also requires providers to establish a written plan of care for each individual, and update the plan at intervals specified in the plan.