

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

Agency Name

Division

Tommi Potter

Contact

**50 West Town Street Suite 400 Columbus OH
43218-2709**

Agency Mailing Address (Plus Zip)

614-752-3877

Phone

614-995-1301

Fax

Tommi.Potter@medicaid.ohio.gov

Email

5160-56-04

Rule Number

NEW

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)? **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: **5164.02**
5. Statute(s) the rule, as filed, amplifies or implements: **5162.02**
6. State the reason(s) for proposing (i.e., why are you filing,) this rule:

This rule is being proposed to update policy relating to the administration of the Medicaid program, and for five-year review. It will replace rescinded rule 5160-56-04.
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 specifies eligibility requirements for hospice providers in Ohio. This rule outlines the designated hospice's responsibilities which includes the conditions of participation for a hospice engaged in the provision of Medicaid hospice services. The new rule removes the requirement of labeling a Medicaid recipients' medical card to indicate that the recipient is receiving hospice care. It also clarifies requirements for hospice providers.

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

This rule incorporates one or more references to the Code of Federal Regulations. This question is not applicable to any dated incorporation by reference to the Code of Federal Regulations because such reference is exempt from compliance with ORC 121.71 to 121.74 pursuant to ORC 121.75(D).

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:

(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

There is no impact on ODM's budget

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:

The hospice provider must be licensed and Medicare certified by the Ohio Department of Health (or accrediting organization) in order to be a Medicaid

hospice provider, as licensure and Medicare certification are requirements for all hospice providers in Ohio regardless of whether they serve Medicaid or non-Medicaid individuals. See rule 3701-19-02 of the Administrative Code. The initial and renewal application fee for hospice licensure is \$600 per provider. The Medicaid application fee of \$560 is waived for licensed hospices that are Medicare certified, which is required by ODM pursuant to 5160-1- 17.2 of the Administrative Code. The every three years' renewal for ODH licensure cost is \$600, and at least every 36 months ODH (or an accrediting organization) completes a Medicare recertification survey at a cost of \$1,625. The estimated cost for a hospice provider to complete a signed agreement with a nursing facility, ICF-IID, or inpatient facility is approximately \$76.92 per hour or \$300 per agreement. The estimated cost for a hospice's legal counsel to review an amended agreement is \$250/hr., and the cost of administrator time is estimated as \$50/hr. to work with facility administration. The length of time to complete an agreement varies from an hour up to 3 hours.

The estimated cost for a hospice provider to obtain a written certification of terminal illness is approximately \$145, or \$115/physician and \$30/nurse per certification. The estimated cost to establish a written plan of care for an individual is approximately \$141. (RN \$30/hour X 3 hours, MSW \$26/hour X 1 hour, and Chaplain \$25/hour x 1 hour per plan,) and the estimated cost to update the plan of care is approximately \$85.50 (for an RN \$30/hour X 2 hours, MSW \$26/hour X 0.5 hour, and Chaplain \$25/hour x 0.5 hour per plan). Sources: Hospice providers; Hospice Salary & Benefit Report, 2016-2017, Hospital & Healthcare Compensation Service

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**

To be eligible to participate in the Ohio Medicaid program, this rule requires

hospice providers to be licensed by the Ohio Department of Health in accordance with Chapter 3712. of the Revised Code. In addition, this rule requires hospice providers to execute 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? **No**