

PUBLIC HEARING NOTICE  
OHIO DEPARTMENT OF MEDICAID

DATE: October 26, 2020

TIME: 11:00 AM

Teleconference Phone Number: 614-721-2972

Teleconference Pin: 604239002#

Pursuant to Chapter 119. and section 5164.02 of the Revised Code, the Director of the Ohio Department of Medicaid (ODM) gives notice of ODM's intent to consider the adoption, amendment, or rescission of the rules identified below and of a public hearing thereon.

OAC 5160-44-11 "Nursing facility-based level of care home and community-based services programs: home delivered meals," sets forth the definitions, service description, meal specifications (menu and delivery), limitations and provider qualifications. The proposed amendment permits ODM and ODA to deem any ODM, ODA or Ohio Department of Developmental Disabilities (DODD) waiver provider as having satisfied ODM or ODA requirements for same or similar services.

OAC 5160-44-12 "Nursing facility-based level of care home and community-based services programs: home maintenance and chore services," sets forth the definitions of services, provider requirements and specifications for the delivery of home maintenance and chore services. The proposed amendment permits ODM and ODA to deem any ODM, ODA or DODD waiver provider as having satisfied ODM or ODA requirements for same or similar services.

OAC 5160-44-13 "Nursing facility-based level of care home and community-based services programs: home modification services," sets forth the service description, authorization process and amount, service limitations and provider requirements for home modification services. The proposed amendment permits ODM and ODA to deem any ODM, ODA or DODD waiver provider as having satisfied ODM or ODA requirements for same or similar services.

OAC 5160-44-14 "Nursing facility-based level of care home and community-based services programs: community integration services," sets forth the definitions of services, provider requirements and specifications for the delivery of community integration services. The proposed amendment permits ODM and ODA to deem any ODM, ODA or DODD waiver provider as having satisfied ODM or ODA requirements for same or similar services.

OAC 5160-44-16 "Nursing facility-based level of care home and community-based services programs: personal emergency response systems," sets forth the service description, equipment specifications, personal emergency response systems (PERS) limitations, and PERS provider requirements. The proposed amendment permits ODM and ODA to deem any ODM, ODA or DODD waiver provider as having satisfied ODM or ODA requirements for same or similar services. Paragraph (D)(4) is modified to indicate that the initial PERS equipment demonstration can be conducted by telephone or electronically, unless the individual's needs necessitate a face-to-face visit.

OAC 5160-44-17 “Nursing facility-based level of care home and community-based services programs: out-of-home respite services,” sets forth the service description, provider qualifications and clinical record keeping requirements for the nursing facility-based home and community services waiver out-of-home respite service. The proposed amendment permits ODM and ODA to deem any ODM, ODA or DODD waiver provider as having satisfied ODM or ODA requirements for same or similar services.

OAC 5160-44-26, “Nursing facility-based level of care home and community-based services programs: community transition services,” sets forth the definitions of services, provider requirements and specifications for the delivery of community transition services. Paragraph (F)(6) is proposed for amendment to reflect that if individual signature requirement cannot be met at the time of service, the provider may accept an electronic signature or standard signature via regular mail from the individual, or otherwise obtain signature no later than at the next face-to-face visit with the individual. The proposed amendment also permits ODM and ODA to deem any ODM, ODA or DODD waiver provider as having satisfied ODM or ODA requirements for same or similar services.

OAC 5160-44-27, “Nursing facility-based level of care home and community-based services programs: home care attendant services,” sets forth the definitions related to the rule, service description, individual expectations, provider qualifications and requirements, and clinical record keeping requirements. The proposed amendment permits ODM and ODA to deem any ODM, ODA or DODD waiver provider as having satisfied ODM or ODA requirements for same or similar services. Additionally, it is amended to reflect that the face-to-face RN visit may be conducted by telephone or electronically, unless the individual's needs necessitate a face-to-face visit. First aid and CPR certification may be from a class that may be solely internet-based and that does not have to include hands-on training by a certified instructor and a successful return demonstration of what was learned in the course. It is also amended to reflect that if the individual is unable to provide the signature at the time of service, the individual is to submit an electronic signature or standard signature via regular mail, or otherwise provide a signature in no instance any later than at the next face-to-face visit with the provider.

OAC 5160-44-31, “Ohio department of medicaid (ODM)-administered waiver programs: provider conditions of participation,” sets forth the Ohio Department of Medicaid (ODM) provider conditions of participation for services outlined in OAC Chapters 5160-44 and 5160-46. It sets forth what a service provider shall and shall not do while providing services to individuals. The proposed amendment clarifies that required provider trainings are limited to on-line and web-based trainings. Additionally, paragraph (B)(14)(c) adds that if the individual is unable to provide the signature required by this paragraph at the time of the service, the individual is to submit an electronic signature or standard signature via regular mail, or otherwise provide a signature in no instance any later than at the next face-to-face visit with the provider.

OAC 5160-45-04, “Ohio department of medicaid (ODM) -administered waiver program: provider enrollment process,” sets forth the enrollment process for Ohio Department of Medicaid (ODM) -administered waiver service providers. Paragraph (D) is being amended to reflect that ODM "may" rather than "will" reject a provider application if all requested information is not submitted within the required timeframes.

OAC 5160-45-06, “Ohio department of medicaid (ODM) -administered waiver program:

structural reviews of providers and investigation of provider occurrences,” sets forth the process and requirements for conducting structural reviews of ODM-administered waiver service providers to ensure providers' compliance with ODM-administered waiver requirements. Paragraph (B)(1) removes the requirement that Medicare-certified and otherwise-accredited agency providers submit a copy of their updated certification and/or accreditation. Paragraph (B)(6) is modified to make in-person structural reviews permissive. They can now also be conducted via desk review. Paragraph (D) (3) permits flexibility with the required timeframes for submission of plans of correction, so long as they are documented in the provider's file.

OAC 5160-46-04, “Ohio home care waiver: definitions of the covered services and provider requirements and specifications,” sets forth the definitions of services, provider requirements and specifications for the delivery of Ohio Home Care Waiver services. The rule will permit first aid to be provided by a course that is not solely through the internet and that does not have to include hands-on training by a certified first aid instructor with performance of a successful return demonstration of what was learned in the course. Face-to-face visits referenced in paragraph (A) (personal care aide services) may be conducted by telephone or electronically, unless the individual’s needs necessitate a face-to-face visit. Adult day health center service (ADHCS) providers approved to provide services on the effective date of this rule may also furnish ADHCS at the individual's place of residence, telephonically, or electronically. The paid ADHCS direct care staff to individual ratio in Paragraph (B)(4)(f) is increased from 1:6 to 1:10. The proposed amendment permits ODM and ODA to deem any ODM, ODA or DODD waiver provider as having satisfied ODM or ODA requirements for same or similar services.

Pursuant to Section twelve of Am. Sub. H. B. No. 197 ODM will hold the public hearing for this rule package via teleconference. The phone number and pin and the date and time for this hearing are listed at the top of this Notice. All interested parties are invited to participate in the public hearing. Oral and written testimony will be accepted for this hearing and will be given the same consideration. Those who want to give oral testimony are asked to send an email to [Rules@Medicaid.Ohio.gov](mailto:Rules@Medicaid.Ohio.gov) no later than one hour before the hearing to be added to the witness list. There will be a final call at the end of the hearing for those who wish to offer oral testimony but are not yet on the witness list.

Written comments submitted via fax, United States Postal Service, and email that are received or postmarked no later than the day of the hearing will be accepted as testimony and become part of the hearing record. All testimony will become public record; therefore, the Ohio Department of Medicaid asks that protected health information only be included if the information belongs to the person submitting the testimony or a person for which the submitter is a legal guardian. Written testimony sent via email is highly recommended, all testimony received via email will receive a confirmation of receipt.

A copy of the proposed rule is available, without charge, to any person at the address listed below. The rules are also available on the internet at <http://www.registerofohio.state.oh.us/>. Requests for a copy of the proposed rule or comments on the rule should be submitted by mail to the Ohio Department of Medicaid, Office of Legal Counsel, 50 W. Town Street, Suite 400, Columbus, Ohio 43215-3414, by fax at (614) 995-1301, or by e-mail at [Rules@Medicaid.Ohio.gov](mailto:Rules@Medicaid.Ohio.gov).