

**PUBLIC HEARING NOTICE
OHIO DEPARTMENT OF MEDICAID**

DATE: MAY 17, 2021
TIME: 11:00 A.M.
TELECONFERENCE PHONE NUMBER: 614-721-2972
TELECONFERENCE PIN: 638 783 573#
LINK TO MICROSOFT TEAMS
MEETING FOR HEARING: [Click here to join the meeting.](#)

Pursuant to Chapter 119. and section 5164.02 of the Ohio Revised Code, the director of the Ohio Department of Medicaid (ODM) gives notice of ODM's intent to consider the amendment of the rules identified below and to hold a public hearing on these rules.

There are currently thirteen rules in Chapter 5160-15 of the Ohio Administrative Code:

- 5160-15-01 --- Transportation: definitions
- 5160-15-11 --- Transportation: non-emergency services through a CDJFS: general provisions
- 5160-15-12 --- Transportation: non-emergency services through a CDJFS: requirements and limitations
- 5160-15-13 --- Transportation: non-emergency services through a CDJFS: administration
- 5160-15-14 --- Transportation: non-emergency services through a CDJFS: program integrity provisions
- 5160-15-21 --- Transportation: services from an eligible provider: provider requirements
- 5160-15-22 --- Transportation: services from an eligible provider: wheelchair van services
- 5160-15-23 --- Transportation: services from an eligible provider: ground ambulance services
- 5160-15-24 --- Transportation: services from an eligible provider: air ambulance services
- 5160-15-25 --- Transportation: services from an eligible provider: points of transport
- 5160-15-26 --- Transportation: services from an eligible provider: service limitations and allowances
- 5160-15-27 --- Transportation: services from an eligible provider: documentation
- 5160-15-28 --- Transportation: services from an eligible provider: payment

As a result of systematic review, a number of changes are being made to the rules, mostly for the purpose of clarification.

- Am. Sub. H. B. 166 (133rd G. A.) lists six terms that cause a rule to be deemed to contain regulatory restrictions: 'shall', 'shall not', 'must', 'may not', forms of 'require', and forms of 'prohibit'. All of these terms are removed from these rules, and the passages in which they appear are recast. The tagline of rule 5160-15-21 is amended to 'Transportation: services from an eligible provider: conditions of provider participation'.
- Parenthetical examples introduced by 'e.g.,' are deleted.

- In rule 5160-15-01, the initial delineation of scope and limitations is replaced with a statement that provisions in Chapter 5160-15 do not necessarily apply to transportation addressed in Medicaid rules in other chapters of the Ohio Administrative Code. The definitions of seven terms are replaced by a reference to corresponding definitions in the Code of Federal Regulations. A statement is added to recognize that 'ground ambulance' is a collective term for land ambulance and water ambulance (although no provider is currently enrolled in Ohio Medicaid as a water ambulance). The definition of 'long-term care facility (LTCF)' is updated, and a sentence is added to clarify that neither an assisted living facility nor a group home is an LTCF. Unnecessary definitions are removed.
- Existing rules 5160-15-11, 5160-15-12, and 5160-15-13 are rescinded and their provisions incorporated into a single new rule 5160-15-10, with "Transportation: non-emergency services through a CDJFS" as its tagline. Several clarifications and additions in the new rule are worth noting:
 - The relationship between the Ohio Department of Medicaid (ODM) and a county department of job and family services (CDJFS) is formally stated.
 - A sentence is added to indicate that the type of transportation assistance to be offered is ultimately the choice of the CDJFS.
 - Policy concerning requests made on behalf of a minor child for non-emergency transportation assistance is addressed in greater detail.
 - A provision is added explicitly allowing a CDJFS to restrict temporarily or suspend a particular type of non-emergency transportation assistance or non-emergency transportation assistance in general for an individual. A non-exhaustive list is added of actions, behaviors, and conditions that may warrant restriction or suspension.
 - A list is added of specific actions that do not constitute restrictions by the CDJFS of the Medicaid benefit and are not subject to state hearing.
 - The minimum community service area is defined.
 - A provision is added recognizing that a CDJFS may choose to offer certain types of non-emergency transportation assistance (e.g., fuel subsidy) that reflect the resources available within its community service area. Every CDJFS is also expected to develop a process for identifying transportation sources and to make a good-faith effort to secure actual rides for individuals who need them.
 - An updated reporting provision specifically directs each CDJFS to use revised form ODM 10241 (renamed the "Medicaid County Transportation Profile") when it submits required basic information about its administration of the transportation assistance benefit. The revised ODM 10241 includes eight information fields, three fewer than its predecessor form.
 - For purposes of data analysis and program integrity, a new provision directs a CDJFS to record complaints and suggestions received from passengers and, if applicable, from vendors.
- In rule 5160-15-14, exclusionary periods are added to the provision concerning criminal background checks. Vendor contracts with a CDJFS may be established or renewed and applicants may be hired by a vendor as direct-service employees if employees or applicants who have been convicted of or have pleaded guilty to a

disqualifying offense have also satisfied the conditions associated with any applicable exclusionary periods. The provision concerning database registries is streamlined. The reference to a list of databases in rule 5160-43-09 is replaced by the specification of two national databases—the System for Award Management (SAM) and the List of Excluded Individuals and Entities (LEIE)—and the statement that the CDJFS performs the search is omitted.

- Rule 5160-15-21 is restructured into four sections: enrollment, rendering provider, billing ("pay to") provider, and prescribing or referring provider. There is no substantive policy change.
- In rule 5160-15-22, two miscellaneous coverage criteria are relocated and more properly expressed as indicators of need. There is no substantive policy change.
- In rule 5160-15-27, the statement that certification cannot create a conflict of interest for the practitioner is expanded to illustrate relationships that prevent someone from certifying the necessity of a service.
- In rule 5160-15-28, a provision is added to specify that payment for a transportation service furnished under an arrangement with a Medicaid managed care organization (MCO) is made in accordance with Chapter 5160-26 of the Ohio Administrative Code.

Pursuant to Am. Sub. H. B. 404 (133rd G. A.), which amends Section 12 of Am. Sub. H. B. 197 (133rd G. A.), ODM will hold the public hearing for these rules via teleconference. The date, time, phone number, PIN (access code), and online link for this hearing are listed at the top of this Notice. All interested parties are invited to participate in the public hearing. Both oral and written testimony will be accepted for this hearing and will be given the same consideration. Persons who want to give oral testimony are asked to send a message by electronic mail (e-mail) to 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 persons who wish to offer oral testimony but do not yet appear on the witness list.

Written comments submitted by e-mail, postal mail, or fax that are received or postmarked no later than the day of the hearing will be accepted as testimony and will become part of the hearing record. All testimony will become public record; therefore, ODM asks that protected health information (PHI) be excluded unless the information belongs to the person submitting the testimony or to a person for whom the submitter is a legal guardian. Written testimony sent by e-mail is highly recommended. All persons who submit testimony by e-mail will be sent a confirmation of receipt.

Copies of these rules are available to any person, without charge, at the following locations:

Ohio Department of Medicaid, 50 West Town Street, Suite 400, Columbus, OH 43215 or

On the internet at <http://www.registerofohio.state.oh.us>.

Requests for copies of the proposed rules or comments on the rules may be submitted in any of the following ways:

By mail to the Office of Chief Legal Counsel, Ohio Department of Medicaid, 50 West Town Street, Suite 400, Columbus, OH 43215-3414;

By fax to (614) 995-1301; or

By e-mail to rules@medicaid.ohio.gov.