

**PUBLIC HEARING NOTICE
OHIO DEPARTMENT OF MEDICAID**

DATE: 08/16/2024

TIME: 11:00 a.m.

Teleconference Dial-in Phone Number: 1-614-721-2972

Teleconference Pin: 42940749#

Link to Microsoft Teams Meeting for Hearing: [Join the meeting now](#)

In-Person Location: A501, Lazarus Building
50 W. Town Street., Columbus, OH 43215

Pursuant to Chapter 119. and sections 5160.02 and 5165.02 of the 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 of a public hearing thereon.

Proposed for Amendment

5160-56-01 entitled "Hospice services: definitions" sets forth the provisions for hospice services definitions and is being proposed for amendment as part of the five year rule review process and includes the following changes:

- In paragraph (D), language is being replaced to align with the definition found in rule 5160-1-33 of the Administrative Code.
- In paragraph (H), language is being added to align with federal regulations.
- Language is being replaced to reflect the new way hospice enrollment data is reported to ODM, through a Medicaid provider portal, and removing all references to the Medicaid Information Technology System (MITS).
- In paragraph (Z), language is being removed as it is later referenced in rule 5160-56-06 of the Administrative Code.
- In new paragraph (NN), managed care language is being updated to align with rule 5160-26-01 of the Administrative Code.
- In paragraph (DDD), telehealth language was added in response to the COVID-19 public health emergency (PHE) and is being removed as it is no longer applicable.
- Language revisions are being made to improve readability.
- Paragraphs are being re-lettered as necessary.
- Code of Federal Regulation dates are being updated.

5160-56-02 entitled "Hospice services: eligibility and election requirements" sets forth the provisions for the criteria that must be met for an individual to receive the Ohio Medicaid hospice benefit. The changes to the rule are:

- Language in the opening paragraph is being deleted because it is not necessary.
- Language in paragraph (A)(4) is being deleted because it is not necessary.
- Paragraphs are being re-lettered as necessary.
- In new paragraph (E), managed care language is being updated to align with rule 5160-26-01 of

the Administrative Code.

- In new paragraph (H)(3), outdated language is being removed.
- In new paragraph (K), references to paragraphs of rule 5160-56-03 of the Administrative Code are being updated.
- Dates for various publications are being updated throughout the rule.
- Regulatory restrictions are being removed throughout the rule pursuant to section 121.95 of the Revised Code.

5160-56-03 entitled “Hospice services: discharge requirements” sets forth the provisions for the circumstances and/or process whereby a hospice would discharge, transfer, or revoke an individual from Ohio Medicaid hospice. The changes to the rule are:

- Certain phrasing is being modified in the rule for purposes of clarity.
- In paragraph (A)(2), language is being replaced to reflect the new manner in which hospice enrollment data is reported to ODM, through a Medicaid provider portal, and to remove all references to the Medicaid Information Technology System (MITS).
- Regulatory restrictions are being removed throughout the rule pursuant to section 121.95 of the Revised Code.
- Paragraphs are being re-lettered as necessary.
- Certain language is being deleted because it is not necessary.

5160-56-03.3 entitled “Hospice services: reporting requirements” sets forth the provisions for the requirements for reporting hospice enrollment data to the Department, through the provider web portal, for individuals receiving Medicaid hospice care in accordance with Chapter 5160-56 of the Administrative Code, including individuals who may be covered by third-party insurance, such as Medicare, for which the hospice seeks reimbursement. The changes to the rule are:

- In paragraph (A), language is being replaced to reflect the new manner in which hospice enrollment data is reported to ODM, through a Medicaid provider portal, and to remove all references to the Medicaid Information Technology System (MITS).
- In paragraph (A)(2), language is being updated to include all procedure codes for all hospice services.
- In paragraph (A)(2)(a), outdated language is being removed.
- In paragraph (B), language is being replaced to reflect the new manner in which hospice enrollment data is reported to ODM, through a Medicaid provider portal, and to remove all references to the Medicaid Information Technology System (MITS).
- In paragraph (B)(8)(b), language is being replaced to reflect the new manner in which hospice enrollment data is reported to ODM, through a Medicaid provider portal, and to remove all references to the Medicaid Information Technology System (MITS).
- In paragraph (B)(11), language is being updated to clarify where supporting documentation should be submitted.
- In paragraph (C), language is being replaced to reflect the new manner in which hospice enrollment data is reported to ODM, through a Medicaid provider portal, and to remove all references to the Medicaid Information Technology System (MITS).
- Regulatory restrictions are being removed throughout the rule pursuant to section 121.95 of the Revised Code.

5160-56-04 entitled “Hospice services: provider requirements” sets forth the provisions for the responsibilities of a hospice to be eligible to provide and to request reimbursement for hospice services. The changes to the rule are:

- Language in old paragraph (A) is being deleted because it is not necessary.
- Paragraphs are being re-lettered as necessary.
- Dates for various publications are being updated throughout the rule.
- Regulatory restrictions are being removed throughout the rule pursuant to section 121.95 of the Revised Code.

5160-56-05 entitled “Hospice services: covered services” sets forth the provisions for the Medicaid covered services that hospice providers may or must furnish to the extent specified by the individual’s plan of care. The changes to the rule are:

- Dates for various publications are being updated throughout the rule.
- Regulatory restrictions are being removed throughout the rule pursuant to section 121.95 of the Revised Code.
- In paragraph (D)(1), language is being removed that allows core services to be provided through a combination of contracting services and telehealth services as necessary to align with federal regulations since the public health emergency has ended.
- In paragraph (D)(2), language is being removed that allows non-core services to be provided through a combination of contracting services and telehealth services as necessary to align with federal regulations since the public health emergency has ended.
- In paragraph (D)(3), the internet location of the Medicare benefit policy manual, chapter nine: coverage of hospice services under hospital insurance is being added.
- In paragraph (E)(2), the internet location of the Medicare benefit policy manual, chapter nine: coverage of hospice services under hospital insurance is being added.

5160-56-06 entitled “Hospice services: reimbursement” sets forth the provisions for the Ohio Department of Medicaid payment for hospice services and care. The changes to the rule are:

- Dates for various publications are being updated throughout the rule.
- Regulatory restrictions are being removed throughout the rule pursuant to section 121.95 of the Revised Code.
- In paragraph (B)(3), language is being added to account for the ending of the two-percentage points payment reduction penalty at the close of federal fiscal year 2024 for non-compliant hospice providers.
- In new paragraph (B)(4), language is being added to account for the change of the payment reduction penalty to four-percentage points beginning with federal fiscal year 2025 for non-compliant hospice providers.
- In paragraph (C), language is being removed that allows telehealth services to be provided when in-person visits are required, to align with federal flexibilities that ended with the public health emergency.
- In paragraph (C)(1)(a), the citation is obsolete and is being removed.
- In paragraph (C)(5), language is being removed which references billing for routine home care services and continuous home care services delivered through telehealth, to align with federal flexibilities that ended with the public health emergency.
- In paragraph (C)(6), language is being removed that is no longer relevant due to federal flexibilities that ended with the public health emergency.
- In paragraph (D), language is being added to clarify that the reimbursement for room and board will be based on ninety-five percent of the rate that the long-term care facility would have otherwise received if the individual was not enrolled in hospice.
- In paragraph (D)(3), clarification is being added to identify when a hospice can bill for room and

- board when an individual is in a NF or ICF-IID.
- In paragraph (D)(5), language is being removed that references room and board services delivered through telehealth, to align with federal flexibilities that ended with the public health emergency.

ODM will hold the public hearing for this rule package via teleconference and in-person. ODM will not require masks for individuals attending in person. However, visitors are welcome to wear masks if that is their preference. The date and time for the public hearing are listed at the top of this Notice as well as the phone number, PIN (access code), and link for teleconference attendance, and location for in-person attendance.

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 e-mail to Rules@medicaid.ohio.gov no later than one hour before the hearing to be added to the witness list. Those attending in person can be added to the witness list at the hearing. There will be a final call at the end of the hearing for persons who wish to offer oral testimony but are not yet on the witness list.

Written comments submitted in-person, 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 which 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.

A copy of the proposed rules are 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 rules or comments on the rules 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.

ODM is committed to providing access and inclusion and reasonable accommodation in its services, activities, programs, and employment opportunities in accordance with the Americans with Disabilities Act (ADA), Title VI of the Civil Rights Act, and other applicable laws. To request an interpreter, written information in a language other than English or in other formats (large print, audio, accessible electronic formats, other formats), or a reasonable accommodation due to a disability, please contact ODM's Civil Rights/ADA Coordinator at 614-995-9981/TTY 711, Fax 1-614-644-1434, or Email: ODM_EEO_EmployeeRelations@medicaid.ohio.gov. Requests should be made at least three (3) business days prior to the scheduled hearing. If you believe ODM has failed to provide these services or discriminated in another way, you can file a grievance with ODM's Civil Rights Coordinator and/or file a civil rights complaint with the U.S. Department of Health and Human Services, Office for Civil Rights. Further information on these processes and ODM's compliance with civil rights and other applicable laws can be found here: [Notice of Nondiscrimination](#)