

## Rule Summary and Fiscal Analysis

### Part A - General Questions

**Rule Number:** 5160-44-12

**Rule Type:** Amendment

**Rule Title/Tagline:** Nursing facility-based level of care home and community-based services programs: home maintenance and choreservices.

**Agency Name:** Ohio Department of Medicaid

**Division:**

**Address:** 50 Town St 4th floor Columbus OH 43218-2709

**Contact:** Tommi Potter **Phone:** 614-752-3877

**Email:** tommi.potter@medicaid.ohio.gov

#### I. Rule Summary

1. **Is this a five year rule review?** Yes
  - A. **What is the rule's five year review date?** 9/22/2023
2. **Is this rule the result of recent legislation?** No
3. **What statute is this rule being promulgated under?** 119.03
4. **What statute(s) grant rule writing authority?** 5166.02
5. **What statute(s) does the rule implement or amplify?** 5162.03, 5164.02, 5166.02
6. **Does the rule implement a federal law or rule in a manner that is more stringent or burdensome than the federal law or regulation requires?** No
  - A. **If so, what is the citation to the federal law or rule?** Not Applicable
7. **What are the reasons for proposing the rule?**

The reasons for proposing the rule are for five-year rule review and the expiration of the appendix K authorities.
8. **Summarize the rule's content, and if this is an amended rule, also summarize the rule's changes.**

Rule 5160-44-12, entitled "Nursing facility-based level of care home and community-based services programs: home maintenance and chore," sets forth the definitions of services, provider requirements and specifications for the home maintenance and chore services.

The proposed changes for this rule are the following:

- o Added environmental hazards, warranty and maintenance plan for adaptive assistive devices and home modifications to be allowable through the service.
- o Added allowance for service to be bundled to meet the needs of an individual (a combination of services may be authorized to complete a job).
- o Removed provider deeming language.
- o Per CMS direction, removed allowance for the service to be accessed 180 days prior to an individual's transition from an institutional setting into the community.
- o Removed restrictive language.
- o Modified language/reformatted requirements for clarification and grammatical errors.
- o Statutory citation updates

9. **Does the rule incorporate material by reference? Yes**
10. **If the rule incorporates material by reference and the agency claims the material is exempt pursuant to R.C. 121.75, please explain the basis for the exemption and how an individual can find the referenced material.**

This rule incorporates one or more references to another rule or rules of the Ohio Administrative Code (OAC). This question is not applicable to any incorporation by reference to another OAC rule because such reference is exempt from compliance with RC 121.71 to 121.74 pursuant to RC 121.75.

11. **If revising or re-filing the rule, please indicate the changes made in the revised or re-filed version of the rule.**

*Not Applicable*

## II. Fiscal Analysis

12. **Please estimate the increase / decrease in the agency's revenues or expenditures in the current biennium due to this rule.**

This will have no impact on revenues or expenditures.

\$0.00

Not Applicable.

**13. What are the estimated costs of compliance for all persons and/or organizations directly affected by the rule?**

Costs of compliance with this rule are those associated with the process of becoming an ODM-approved or ODA-certified home maintenance and chore service provider. The provider must be an agency or non-agency provider that has been approved by ODM or certified by ODA as a Medicaid provider of home maintenance and chore services. Home maintenance and chore service providers must submit a fixed cost proposal to perform the services submitted under a referral issued by ODM, ODA or their designee regarding an individual's service needs. The proposal must be good for the term of the proposal, and can only be adjusted for good cause if modified in writing, and approved by ODM, ODA or their designee.

The provider must also:

- o Maintain and upon request, furnish proof of appropriate qualifications to perform services requiring specialized skills such as electrical, heating/ventilation and plumbing work.
- o Maintain and upon request, furnish proof of licensure, insurance and bonding for services from applicable jurisdictions.
- o Maintain and upon request, furnish a list of the chemicals or substances used for each proposal.
- o Furnish to the individual and ODM, ODA or their designee a warranty that covers the workmanship and materials involved in performing the service, as applicable.
- o Provide documentation to ODM, ODA or their designee that the service was completed in accordance with the agreed upon specifications using the materials and equipment cited in the proposal.
- o Provide documentation to ODM, ODA or their designee that the service was tested, is in proper working order and is usable by the individual, if applicable.

**14. Does the rule increase local government costs? (If yes, you must complete an RSFA Part B). No**

**15. Does the rule regulate environmental protection? (If yes, you must complete an RSFA Part C). No**

**16. If the rule imposes a regulation fee, explain how the fee directly relates to your agency's cost in regulating the individual or business.**

Not Applicable.

### **III. Common Sense Initiative (CSI) Questions**

**17. Was this rule filed with the Common Sense Initiative Office? Yes**

**18. Does this rule have an adverse impact on business? Yes**

**A. Does this rule require a license, permit, or any other prior authorization to engage in or operate a line of business? Yes**

The provider must be an agency or non-agency provider that has been approved by ODM or certified by ODA as a Medicaid provider of home maintenance and chore 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**

Home maintenance and chore service providers must submit a fixed cost proposal to perform the services submitted under a referral issued by ODM, ODA or their designee regarding an individual's service needs.

The provider must also:

o Maintain and upon request, furnish proof of appropriate qualifications to perform services requiring specialized skills such as electrical, heating/ventilation and plumbing work.

o Maintain and upon request, furnish proof of licensure, insurance and bonding for services from applicable jurisdictions.

o Maintain and upon request, furnish a list of the chemicals or substances used for each proposal.

o Furnish the individual and ODM, ODA or their designee a warranty that covers the workmanship and materials involved in performing the service, as applicable.

o Provide documentation to ODM, ODA or their designee that the service was completed in accordance with the agreed upon specifications using the materials and equipment cited in the proposal.

o Provide documentation to ODM, ODA or their designee that the service was tested, is in proper working order and is usable by the individual, if applicable.

**D. Is it likely that the rule will directly reduce the revenue or increase the expenses of the lines of business of which it will apply or applies? No**

**IV. Regulatory Restriction Requirements under S.B. 9. Note: This section only applies to agencies described in R.C. 121.95(A).**

**19. Are you adding a new or removing an existing regulatory restriction as defined in R.C. 121.95? Yes**

**A. How many new regulatory restrictions do you propose adding to this rule? 0**

**B. How many existing regulatory restrictions do you propose removing from this rule? 12**

5160-44-12 (D)(2) - "Shall" to be removed.

5160-44-12 (D)(3) - "Shall" to be removed.

5160-44-12 (D)(3)(a) - "Shall" to be removed.

5160-44-12 (D)(4) - "Shall" to be removed.

5160-44-12 (D)(5) - "Shall" to be removed.

5160-44-12 (E) - "Shall" to be removed.

5160-44-12 (E)(5) - "Shall" to be removed.

5160-44-12 (F)(1) - "Shall" to be removed.

5160-44-12 (F)(2) - "Shall" to be removed.

5160-44-12 (G) - "Shall" to be removed.

5160-44-12 (H) - "Shall" to be removed.

5160-44-12 (D)(2)- "Required" to be removed.

**C. If you are not removing existing regulatory restrictions from this rule, please list the rule number(s) from which you are removing restrictions.**

**D. Please justify the adoption of the new regulatory restriction(s).**

Not Applicable