Rule Summary and Fiscal Analysis
Part A - General Questions

Rule Number: 5160-45-06

Rule Type: Amendment

Rule Title/Tagline: Ohio department of medicaid (ODM) -administered waiver program: structural reviews of providers and investigation of provider occurrences.

Agency Name: Ohio Department of Medicaid

Division:

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I. Rule Summary

1. **Is this a five year rule review?** No

    A. **What is the rule's five year review date?** 2/1/2025

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. **What are the reasons for proposing the rule?**

    This rule is being proposed for amendment to update policy related to the administration of the ODM-administered HCBS waiver programs, and to make permanent during the ongoing COVID-19 public health emergency those emergency rule changes resulting from Executive Order 2020-23D.

7. **Summarize the rule's content, and if this is an amended rule, also summarize the rule's changes.**

This rule 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.

8. **Does the rule incorporate material by reference?** Yes

9. **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 Administrative Code. Such reference is exempt from compliance with incorporation by reference requirements pursuant to ORC 121.75(A).

10. **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

11. **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.

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

    Providers may be subject to costs associated with providing information for structural reviews and any corrective action associated with the results of such reviews. Assuming that ODM-administered waiver providers and contractors adhere to the ODM-administered waiver provider requirements, there should be little or no cost

of compliance with this review. However, if the provider does not, and an incident or provider occurrence is reported, the provider will be subject to investigation and follow-up and could be subject to sanctions that could result in their inability to participate in the Medicaid waiver program.

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

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

15. **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

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

17. **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?** No

    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

    Medicare-certified and otherwise-accredited agency providers must submit a copy of their updated certification and/or accreditation, and upon request by ODM or its designee, shall make available within ten business days, all review reports and accepted plans of correction from the certification and/or accreditation bodies.

    Except for unannounced reviews, as part of the structural review process, providers will be notified in advance of the list of the type of documents required for the review. The provider must ensure the availability of the documents.

When findings are issued by ODM or its designee, the provider must respond in writing within 45 calendar days in a plan of correction. If the plan is not acceptable, the provider will be asked to submit a new plan within prescribed timeframes not to exceed 45 calendar days. ODM permits flexibility with the required timeframes for submission of plans of correction required in this paragraph, so long as it is documented in the provider's file.

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? Yes

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IV. Regulatory Restrictions (This section only applies to agencies indicated in R.C. 121.95 (A))

18. 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? 0

B. How many existing regulatory restrictions do you propose removing? 1

(B)(1) Medicare-certified and otherwise-accredited agency providers shall submit a copy of their updated certification and/or accreditation, and upon request by ODM or its designee, shall make available within ten business days,

all review reports and accepted plans of correction from the certification and/or accreditation bodies.