

Rule Summary and Fiscal Analysis (Part A)**Ohio Department of Medicaid**

Agency Name

Division

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5160-45-06

Rule Number

RESCISSION

TYPE of rule filing

Rule Title/Tag Line

ODJFS-administered waiver program: structural reviews of providers and investigation of alleged provider occurrences and overpayments.**RULE SUMMARY**

1. Is the rule being filed for five year review (FYR)? **Yes**
2. Are you proposing this rule as a result of recent legislation? **No**
3. Statute prescribing the procedure in accordance with the agency is required to adopt the rule: **119.03**
4. Statute(s) authorizing agency to adopt the rule: **5166.02**
5. Statute(s) the rule, as filed, amplifies or implements: **5162.03, 5164.02, 5166.02**
6. State the reason(s) for proposing (i.e., why are you filing,) this rule:

This rule is being rescinded as a result of five year review. It is being replaced with new OAC rule 5160-45-06.

7. If the rule is an AMENDMENT, then summarize the changes and the content of the proposed rule; If the rule type is RESCISSION, NEW or NO CHANGE, then summarize the content of the rule:

This rule sets forth policy and procedures governing structural reviews of Ohio Department of Medicaid (ODM) -administered waiver service providers, and the provider occurrence process.

8. If the rule incorporates a text or other material by reference and the agency claims the incorporation by reference is exempt from compliance with sections 121.71 to 121.74 of the Revised Code because the text or other material is **generally available** to persons who reasonably can be expected to be affected by the rule, provide an explanation of how the text or other material is generally available to those persons:

This response left blank because filer specified online that the rule does not incorporate a text or other material by reference.

9. If the rule incorporates a text or other material by reference, and it was **infeasible** for the agency to file the text or other material electronically, provide an explanation of why filing the text or other material electronically was infeasible:

This response left blank because filer specified online that the rule does not incorporate a text or other material by reference.

10. If the rule is being **rescinded** and incorporates a text or other material by reference, and it was **infeasible** for the agency to file the text or other material, provide an explanation of why filing the text or other material was infeasible:

This response left blank because filer specified online that the rule does not incorporate a text or other materials by reference.

11. If **revising** or **refiling** this rule, identify changes made from the previously filed version of this rule; if none, please state so. If applicable, indicate each specific paragraph of the rule that has been modified:

Not Applicable.

12. Five Year Review (FYR) Date: **11/17/2014**

(If the rule is not exempt and you answered NO to question No. 1, provide the scheduled review date. If you answered YES to No. 1, the review date for this rule is the filing date.)

NOTE: If the rule is not exempt at the time of final filing, two dates are required: the current review date plus a date not to exceed 5 years from the effective date

for Amended rules or a date not to exceed 5 years from the review date for No Change rules.

FISCAL ANALYSIS

13. Estimate the total amount by which *this proposed rule* would **increase / decrease** either **revenues / expenditures** for the agency during the current biennium (in dollars): Explain the net impact of the proposed changes to the budget of your agency/department.

This will have no impact on revenues or expenditures.

\$0.00

Rescission of this rule will not impact the agency's projected budget during the current biennium.

14. Identify the appropriation (by line item etc.) that authorizes each expenditure necessitated by the proposed rule:

Not applicable.

15. Provide a summary of the estimated cost of compliance with the rule to all directly affected persons. When appropriate, please include the source for your information/estimated costs, e.g. industry, CFR, internal/agency:

No new costs.

16. Does this rule have a fiscal effect on school districts, counties, townships, or municipal corporations? **No**

17. Does this rule deal with environmental protection or contain a component dealing with environmental protection as defined in R. C. 121.39? **No**

S.B. 2 (129th General Assembly) Questions

18. Has this rule been filed with the Common Sense Initiative Office pursuant to R.C. 121.82? **Yes**

19. Specific to this rule, answer the following:

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? **Yes**

Pursuant to this rule, ODM may impose sanctions upon a provider in accordance with rule 5160-45-09 of the Administrative Code in the event a provider does any of the following:

- (1) Refuses to accept the certified letter when it is delivered;
- (2) Fails to respond to ODM's or its designee's request for a plan of correction;
- (3) Has not followed the plan of correction and/or successfully achieved the plan's desired results;
- (4) Has not complied with the timeframes set forth in this rule;
- (5) Has failed to protect individuals from repeated and substantiated reportable incidents;
- (6) Has multiple substantiated provider occurrences;
- (7) Has created a serious and immediate threat to the health and welfare of any individual receiving ODM-administered waiver services;
- (8) Did not attend or cooperate during the face-to-face structural review;
- (9) Did not make available requested documents; or
- (10) Did not submit a satisfactory plan of correction, or upon request, resubmit a satisfactory plan of correction.

C.) Does this rule require specific expenditures or the report of information as a condition of compliance? **Yes**

As part of the structural review process, the provider shall assure the availability and confidentiality of information and other documents that may be requested. This may include, but is not limited to clinical records, the provider's service delivery records and other supporting documentation.

As part of its investigation of alleged provider occurrences, ODM or its designee may request:

- (1) Clinical notes from the provider;

- (2) Case management documentation from the individual's file or electronic record;
- (3) The individual's assessment and reassessments;
- (4) The individual's all services plans;
- (5) Provider billing information;
- (6) Physicians' orders;
- (7) Prior occurrences reports; or
- (8) Any other relevant information.

ODM may require a plan of correction as a result of a structural review or the investigation of a provider occurrence.