

Rule Summary and Fiscal Analysis

Part A - General Questions

Rule Number: 5160-46-04

Rule Type: Amendment

Rule Title/Tagline: Ohio home care waiver: definitions of the covered services and provider requirements and specifications.

Agency Name: Ohio Department of Medicaid

Division:

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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 5160-46-04, entitled "Ohio home care waiver: definitions of the covered services and provider requirements and specifications," describes the definitions of services, provider requirements and specifications for the delivery of Ohio Home Care Waiver services.

The proposed changes for this rule are the following:

- o Decreased in-service continuing education requirements for non-agency personal care providers from twelve to six.
- o Reinstated restriction on solely internet-based training requirements.
- o Modified RN assessment in-person requirements.
- o Excluded the requirement for a discharge summary in the event the individual passes away.
- o Removed the temporary allowance for the service to be provided remotely or in the home of the individual.
- 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 deeming language.
- 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 the Revised Code. Such reference is exempt from compliance with incorporation by reference requirements pursuant to ORC 121.75.

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.

This rule incorporates one or more references to another rule or rules of the Code of Federal Regulations (CFR). This question is not applicable to any incorporation by reference to another CFR 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?

There are no new costs of compliance associated with implementing this rule change. This rule includes many service providers. It requires certain providers to have a certification, accreditation or licensure based upon provider types. Certain providers are required to show proof of training or certification prior to rendering services and must maintain evidence of completion of continuing education or training. Supplemental transportation providers must maintain collision/liability insurance and obtain vehicle inspections for all vehicles.

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

- o Home health agencies must be Medicare-certified or otherwise accredited by a national accreditation body. Personal care aides must have a certificate of completion of either a competency evaluation program or training and competency evaluation program approved and conducted by the Ohio Department of Health, or the Medicare competency evaluation program for home health aides. They must also obtain and maintain first aid certification.
- o Adult day health center must provide for replacement coverage due to theft, property damage and/or personal injury.
- o Supplemental transportation service providers must possess a valid driver's license. Additionally, they must maintain collision/liability insurance for each vehicle/driver and obtain and exhibit evidence of valid motor vehicle inspections from the Ohio Highway Patrol for all vehicles used to provide services. Nonagency drivers must possess collision/liability insurance and obtain and exhibit evidence of required motor vehicle inspections. Drivers must also obtain and maintain a certificate of completion of a course in first aid.

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

Adult day health center must provide for replacement coverage due to theft, property damage and/or personal injury. Supplemental transportation service providers must maintain collision/liability insurance for each vehicle/driver, and obtain and exhibit evidence of valid motor vehicle inspections from the Ohio Highway Patrol for all vehicles used to provide services. Nonagency drivers must possess collision/liability insurance and obtain and exhibit evidence of required motor vehicle inspections. Drivers must also obtain and maintain a certificate of completion of a course in first aid.

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? 47

5160-46-04 (A)(1) - "Shall" to be removed.

5160-46-04 (A)(1) - "Shall" to be removed.

5160-46-04 (A)(4) - "Shall" to be removed.

5160-46-04 (A)(5) - "Shall" to be removed.

5160-46-04 (A)(6) - "Shall" to be removed.

5160-46-04 (A)(7) - "Shall" to be removed.

5160-46-04 (A)(7)(a) - "Shall" to be removed.

5160-46-04 (A)(7)(b) - "Shall" to be removed.

5160-46-04 (A)(7)(b) - "Shall" to be removed.

5160-46-04 (A)(7)(c) - "Shall" to be removed.

5160-46-04 (A)(7)(c)(ii) - "Shall" to be removed.

5160-46-04 (A)(8) - "Shall" to be removed.

5160-46-04 (A)(8)(a) - "Shall" to be removed.

5160-46-04 (A)(8)(a)(i) - "Shall" to be removed.

5160-46-04 (A)(8)(b) - "Shall" to be removed.

5160-46-04 (A)(9) - "Shall" to be removed.

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5160-46-04 (A)(9) - "Shall" to be removed.

5160-46-04 (A)(9)(g) - "Shall" to be removed.

5160-46-04 (A)(9)(g) - "Shall" to be removed.

5160-46-04 (B)(1) - "Must" to be removed.

5160-46-04 (B)(1) - "Shall" to be removed.

5160-46-04 (B)(1)(a) - "Shall" to be removed.

5160-46-04 (B)(1)(d) - "Shall" to be removed.

5160-46-04 (B)(3) - "Shall" to be removed.

5160-46-04 (B)(4) - "Shall" to be removed.

5160-46-04 (B)(4)(b) - "Shall" to be removed.

5160-46-04 (B)(5) - "Shall" to be removed.

5160-46-04 (B)(5) - "Shall" to be removed.

5160-46-04 (B)(5)(g) - "Shall" to be removed.

5160-46-04 (C)(1) - "Shall" to be removed.

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5160-46-04 (C)(1)(a) - "Shall" to be removed.

5160-46-04 (C)(1)(b) - "Shall" to be removed.

5160-46-04 (C)(1)(c) - "Shall" to be removed.

5160-46-04 (C)(2)(b) - "Shall" to be removed.

5160-46-04 (C)(3) - "Shall" to be removed.

5160-46-04 (C)(4) - "Shall" to be removed.

5160-46-04 (C)(4) - "Shall" to be removed.

5160-46-04 (C)(4)(d) - "Shall" to be removed.

5160-46-04 (D)(3) - "Shall" to be removed.

5160-46-04 (D)(4) - "Shall" to be removed.

5160-46-04 (D)(5) - "Shall" to be removed.

5160-46-04 (D)(5) - "Shall" to be removed.

5160-46-04 (D)(5) - "Shall" 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