

## Rule Summary and Fiscal Analysis

### Part A - General Questions

**Rule Number:** 5160-46-04

**Rule Type:** Rescission

**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?** 10/15/2018
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 rescission to update policy relating to the administration of the nursing facility-based level of care, home and community-based services waivers. This rule is being replaced by a new rule 5160-46-04.

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

This rule sets forth the definitions of services, provider requirements, and specifications for the delivery of Ohio Home Care Waiver services. Changes between

this rule and the new rule 5160-46-04 include removal of waiver nursing services, home delivered meal services, home modification services, out-of-home respite services and emergency response services. The removed services will be implemented in OAC Chapter 5160-44.

- 8. Does the rule incorporate material by reference? No**
- 9. If the rule incorporates material by reference and the agency claims the material is exempt pursuant to R.C. 121.71 to 121.76, please explain the basis for the exemption and how an individual can find the referenced material.**

*Not Applicable*

- 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. As a result of this proposed rule, please estimate the increase / decrease in revenues or expenditures affecting this agency, or the state generally, in the current biennium or future years. If the proposed rule is likely to have a different fiscal effect in future years, please describe the expected difference and operation.**

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?**

There are no new costs of compliance associated with the rescission of this rule. This rule includes many service providers. It requires certain providers to have a certification, accreditation or licensure based upon provider type. 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. Home modification providers must submit bids for work that include drawings/diagrams of the modification, itemized lists of materials that will be needed, the cost of materials and labor costs, a written statement of all warranties provided and a written attestation that the provider, all employees and/or all subcontractors to be used

have the necessary experience and skills. Supplemental transportation providers must maintain collision/liability insurance and obtain vehicle inspections for all vehicles.

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**

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

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

Home health agencies must be Medicare-certified or otherwise accredited by a national accreditation body. Waiver nursing providers must be registered nurses or licensed practical nurses who possess a current, valid and unrestricted license with the Ohio Board of Nursing. 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. Home delivered meal providers must furnish meals that are approved by a licensed dietitian who is registered with the Commission on Dietetic Registration. Providers must also possess any applicable, current, valid licenses/certificates from the local health department. Home modification providers must maintain licensure, insurance and bonding for general contracting services of applicable jurisdictions. Out-of-home respite service providers must be a licensed/certified intermediate care facility for individuals with intellectual disabilities, a licensed/certified nursing facility, or another licensed setting approved by ODM or its designee. Supplemental transportation service providers must possess a valid driver's license.

- 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**

Personal care aide providers must maintain evidence of completion of 12 hours of in-service continuing education every 12 months and program-specific orientation. An adult day health center must provide for replacement coverage due to theft, property damage and/or personal injury. They must also maintain evidence of direct care staff's completion of 12 hours of in-service training within a 12-month period and annually thereafter. Home modification providers must submit bids for work that include drawings/diagrams of the modification, itemized lists of materials that will be needed, the cost of materials and labor costs, a written statement of all warranties provided and a written attestation that the provider, all employees and/or all subcontractors to be used have the necessary experience and skills. Out of home respite providers must provide for replacement coverage due to theft, property damage and/or personal injury. They must also maintain evidence of completion of eight hours of in-service continuing education every 12 months and program-specific orientation. 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. Non-agency 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.