

## Rule Summary and Fiscal Analysis

### Part A - General Questions

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

**Rule Type:** New

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

**Agency Name:** Ohio Department of Medicaid

**Division:**

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

**Contact:** Tommi Potter

**Email:** tommi.potter@medicaid.ohio.gov **Phone:** 614-752-3877

#### **I. Rule Summary**

1. Is this a five year rule review? No
  - A. What is the rule's five year review date?
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 as new to update policy relating to the administration of the nursing facility-based level of care, home and community-based services waivers. This rule is replacing rescinded rule 5160-46-04.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this rule and rescinded rule 5160-46-04 include removal of waiver nursing services, home delivered meal services, home modification services, out-of-home respite services and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? Yes**
- 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.**

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 121.76(A)(3). OAC Medicaid rules may be found online at: <http://codes.ohio.gov/oac/5160>.

This rule incorporates one or more references to the Ohio Revised Code. This question is not applicable to any incorporation by reference to the Ohio Revised Code because such reference is exempt from compliance with RC 121.71 to 121.74 pursuant to RC 121.76(A)(1). The Ohio Revised Code references may be found online at: <http://codes.ohio.gov/orc/51>.

This rule incorporates one or more dated references to the Code of Federal Regulations (CFR). This question is not applicable to any dated incorporation by reference to the CFR because such reference is exempt from compliance with RC 121.71 to 121.74 in accordance with RC 121.75(D). The eCFR is available online at: <http://www.ecfr.gov/cgi-bin/ECFR?page=browse>

This rule incorporates one or more dated references to a federal act or acts. This question is not applicable to any dated incorporation by reference to a federal act because such reference is exempt from compliance with RC 121.71 to 121.74 pursuant to RC 121.75(C). Specifically, the Fair Housing Act is found at: <https://www.justice.gov/crt/fair-housing-act-2>, the Americans with Disabilities Act (ADA) is found at: <https://www.ada.gov/> and the Uniform Federal Accessibility Standards (UFAS) is found at: <https://www.access-board.gov/guidelines-and-standards/buildings-and-sites/about-the-aba-standards/ufas>

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

In response to stakeholder feedback, a minor edit was made to paragraph (A)(6)(a)(ii) where the term "class" was changed to "program."

## **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 implementing this new 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. 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? No**

- 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. 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. 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**

An 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. 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.