

Rule Summary and Fiscal Analysis

Part A - General Questions

Rule Number: 5160-56-06

Rule Type: Amendment

Rule Title/Tagline: Hospice services: reimbursement.

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? 7/16/2024
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? 5164.02
5. What statute(s) does the rule implement or amplify? 5162.03
6. What are the reasons for proposing the rule?

Five-year review
7. Summarize the rule's content, and if this is an amended rule, also summarize the rule's changes.

This rule sets forth the provisions for the Ohio Department of Medicaid payment for hospice services and care. The changes to the rule are:

 - 1) Dates for various publications are being updated throughout the rule.
 - 2) Certain language is being deleted because it is not necessary.

- 3) Regulatory restrictions are being removed throughout the rule pursuant to section 121.95 of the Revised Code.
- 4) In paragraph (B)(3), language is being added to account for the ending of the two-percentage points payment reduction penalty at the close of federal fiscal year 2024 for non-compliant hospice providers.
- 5) In new paragraph (B)(4), language is being added to account for the change of the payment reduction penalty to four-percentage points beginning with federal fiscal year 2025 for non-compliant hospice providers.
- 6) In paragraph (C), language is being removed that allows telehealth services to be provided when in-person visits are required, to align with federal flexibilities that ended with the public health emergency.
- 7) In paragraph (C)(1)(a), the citation is obsolete and is being removed.
- 8) In paragraph (C)(5), language is being removed which references billing for routine home care services and continuous home care services delivered through telehealth, to align with federal flexibilities that ended with the public health emergency.
- 9) In paragraph (C)(6), language is being removed that is no longer relevant due to federal flexibilities that ended with the public health emergency.
- 10) In paragraph (D), language is being added to clarify that the reimbursement for room and board will be based on ninety-five percent of the rate that the long-term care facility would have otherwise received if the individual was not enrolled in hospice.
- 11) In paragraph (D)(3), clarification is being added to identify when a hospice can bill for room and board when an individual is in a NF or ICF-IID.
- 12) In paragraph (D)(5), language is being removed that references room and board services delivered through telehealth, to align with federal flexibilities that ended with the public health emergency.

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 the Revised Code. This question is not applicable to any incorporation by reference to the Revised Code because such reference is exempt from compliance with RC 121.71 to 121.74 pursuant to RC 121.75(A)(1)(a).

This rule incorporates one or more references to another rule or rules of the Administrative Code. This question is not applicable to any incorporation by reference to another Administrative Code rule because such reference is exempt from compliance with RC 121.71 to 121.74 pursuant to RC 121.75(A)(1)(d).

This rule incorporates one or more dated references to the U.S. Code. This question is not applicable to any dated incorporation by reference to the U.S. Code because such reference is exempt from compliance with RC 121.71 to 121.74 in accordance with RC 121.75(A)(2)(a).

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 121.75(A)(2)(d).

- 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?**

In accordance with paragraph (B)(3) of this rule, for designated hospices that fail to comply with the hospice quality reporting program as federally mandated for fiscal years 2014 through 2023, ODM will reimburse the payment amount minus a two-percentage point reduction, as prescribed by CMS for the corresponding federal fiscal year.

In accordance with (B)(4) of this rule, for designated hospices that fail to comply with the hospice quality reporting program as federally mandated, beginning with federal fiscal year 2025 and subsequent fiscal years, the reduction increases to 4 percentage points. Any reduction of the percentage change will apply only to the fiscal year involved and will not be taken into account in computing the payment amounts for a subsequent fiscal year.

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? Yes

In accordance with paragraph (B)(3) of this rule, hospice providers that fail to comply with the hospice quality reporting program as federally mandated for fiscal years 2014 through 2023, ODM will reimburse the payment amount minus a two-percentage point reduction, as prescribed by CMS for the corresponding federal fiscal year.

In accordance with (B)(4) of this rule, for designated hospices that fail to comply with the hospice quality reporting program as federally mandated, beginning with federal fiscal year 2025 and subsequent fiscal years, the reduction increases to 4 percentage points. Any reduction of the percentage change will apply only to the fiscal year involved and will not be taken into account in computing the payment amounts for a subsequent fiscal year.

C. Does this rule require specific expenditures or the report of information as a condition of compliance? No

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 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 to this rule? 0

B. How many existing regulatory restrictions do you propose removing from this rule? 19

5160-56-06 (A) shall

5160-56-06 (B) shall

5160-56-06 (C) shall

5160-56-06 (C)(1) must

5160-56-06 (C)(1)(a) shall

5160-56-06 (C)(1)(b) shall

5160-56-06 (C)(1)(b) shall

5160-56-06 (C)(1)(b) shall

5160-56-06 (C)(1)(b) shall

5160-56-06 (C)(2) must

5160-56-06 (C)(3) must

5160-56-06 (C)(4) must

5160-56-06 (D)(1) must

5160-56-06 (D)(2) must

5160-56-06 (D)(3) must

5160-56-06 (D)(4) must

5160-56-06 (H) shall

5160-56-06 (I) must

5160-56-06 (I) must

- C. If you are not removing existing regulatory restrictions from this rule, please list the rule number(s) from which you are removing restrictions.**
Not Applicable.