

Rule Summary and Fiscal Analysis

Part A - General Questions

Rule Number: 5160-59-05.1

Rule Type: Amendment

Rule Title/Tagline: OhioRISE home and community-based services waiver: out-of-home respite.

Agency Name: Ohio Department of Medicaid

Division:

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I. Rule Summary

1. Is this a five year rule review? No
 - A. What is the rule's five year review date? 6/30/2027
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? 5167.02, 5166.02
5. What statute(s) does the rule implement or amplify? 5162.03, 5166.04, 5167.03
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?

This rule is being amended to provide additional clarification on eligible providers allowed to render the out-of-home respite service and remove Psychiatric Residential Treatment Facilities (PRTFs) as an allowed provider of service.

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

Ohio Administrative Code (OAC) rule 5160-59-5.1, entitled "OhioRISE home and community-based services waiver: out-of-home respite," defines and sets forth provisions governing coverage for out-of-home respite services furnished as part of the Ohio resilience through integrated systems and excellence (OhioRISE) 1915(c) waiver program (waiver) established in accordance with 1915(c) of the Social Security Act, 42 U.S.C. 1396n (January 1, 2022). It also includes the provider eligibility requirements to provide out-of-home respite services. Since implementing the OhioRISE Waiver on July, 1, 2022, the Department of Medicaid has identified areas with the Out-of-Home Respite rule that need clarification. This rule will be proposed for amendment to provide additional clarification on eligible providers allowed to render the out-of-home respite service and remove PRTFs as an allowed provider of service.

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. 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). The Ohio Revised Code references may be found online at: <http://codes.ohio.gov/orc/51>.

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

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).

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).

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.

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Not Applicable

13. What are the estimated costs of compliance for all persons and/or organizations directly affected by the rule?

Not Applicable

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

An ICF/IID will be certified by the Ohio department of health (ODH), hold certification as a residential respite provider, and have an active license

with the Ohio department of developmental disabilities (DODD). An agency provider will hold certification for community respite services. Providers will obtain and maintain first aid certification from instruction which includes hands-on training by a certified first aid instructor.

- 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? 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? Yes**

First aid training costs will also vary by program and geographic region. An informal survey of American Red Cross, American Heart Association and other first aid courses around the state suggests that the average cost is about \$70-75. Tuition can range anywhere from \$50 to over \$110, with lower rates in more rural counties.

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? No**

- A. How many new regulatory restrictions do you propose adding to this rule?**
Not Applicable
- B. How many existing regulatory restrictions do you propose removing from this rule?**
Not Applicable
- 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
- D. Please justify the adoption of the new regulatory restriction(s).**

Not Applicable