

## Rule Summary and Fiscal Analysis

### Part A - General Questions

**Rule Number:** 5160-8-42

**Rule Type:** New

**Rule Title/Tagline:** Lactation consultation services.

**Agency Name:** Ohio Department of Medicaid

**Division:**

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

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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?**
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?** 5164.02
6. **What are the reasons for proposing the rule?**

This rule is being proposed to update policy related to the administration of the Medicaid program.

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

Rule 5160-8-42, "Lactation consulting services," and rule 5160-10-25 "DMEPOS: lactation pumps." set forth coverage and payment provisions for lactation consulting services and breast pumps and supplies. New rule 5160-8-42 establishes Medicaid payment for lactation consulting services when provided by physicians,

physician assistants, advanced practice registered nurses, and registered nurses for breastfeeding education, support, and assistance with complex breastfeeding problems. Rule 5160-10-25 is being amended to loosen restrictions regarding the medical necessity of breast pumps and to add coverage and payment criteria for breast pump supplies. Breastfeeding has been shown to be one of the most effective preventive measures mothers can take to protect their children's health. Evidence shows that breastfeeding is a low-cost, preventive health strategy that can prevent or address many acute and chronic health issues for mother and baby. These services are intended to narrow Ohio's racial disparity in infant and maternal deaths and lower Ohio's overall infant mortality rate.

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 another rule or rules of the Ohio Administrative Code. 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.

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 increase expenditures.

\$1,631,280

Based on ODM utilization data and the average number of pregnancies in a given year, the expected utilization for lactation consulting services will result in the estimated increase in expenditures.

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

Quantifying the costs for obtaining an IBCLC credential is difficult because of the significant variance of appropriate educational pathways available to achieve certification. Providers wishing to become IBCLC's are required to select a training curriculum approved by the International Board of Lactation Consultant Examiners however the cost varies based on the source chosen by the provider.

The cost to receive an initial IBCLC certification is \$660. Recertification costs \$330 every ten years or providers can substitute taking the recertification exam with 75 hours of lactation, ethics, or other related education every five years. Recertification also requires 250 hours of clinical practice and basic life support education. Quantifying the cost of education would be difficult given the vast availability of qualifying courses.

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?** Yes

The proposed changes in the rule addresses appropriate licensure a registered nurse should possess in order to provide lactation counseling services. ODM needs to ensure a registered nurse is appropriately licensed prior to providing lactation consulting services.
  - 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? 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? No

- A. How many new regulatory restrictions do you propose adding?

Not Applicable

- B. How many existing regulatory restrictions do you propose removing?

Not Applicable