

Rule Summary and Fiscal Analysis

Part A - General Questions

Rule Number: 5160-10-13

Rule Type: Amendment

Rule Title/Tagline: DMEPOS: oxygen.

Agency Name: Ohio Department of Medicaid

Division:

Address: 50 West Town Street Suite 400 Columbus OH 43218-2709

Contact: Tommi Potter **Phone:** 614-752-3877

Email: Tommi.Potter@medicaid.ohio.gov

I. Rule Summary

1. **Is this a five year rule review?** Yes
 - A. **What is the rule's five year review date?** 8/15/2024
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?** 5164.02
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?**

ODM is amending this rule to update policy related to the administration of the Medicaid program.
8. **Summarize the rule's content, and if this is an amended rule, also summarize the rule's changes.**

Rule 5160-10-13 of the Ohio Administrative Code, "DMEPOS: oxygen," sets forth coverage and payment policies for oxygen under the durable medical equipment, prostheses, orthoses, and supplies (DMEPOS) benefit. As a result of a systematic review of this rule conducted pursuant to section 106.03 of the Ohio Revised Code, a number of changes will be made to the rule, mostly for the purpose of clarification.

* A new term, 'group III criteria', is introduced to designate indicators of the medical necessity of oxygen that do not fall within group I or group II. Examples of such indicators include cluster headaches and illnesses for which a public health emergency has been declared.

* The associated certificate of medical necessity (CMN), form ODM 01909, has been updated.

* Phrasing has been revised to clarify that grouping criteria apply to health conditions rather than to individuals.

* Dates or lengths of certain time periods have been revised.

* The phrase 'sleep study' has been corrected to 'respiratory study'.

* The exclusion of payment for both a stationary oxygen concentrator and a portable oxygen concentrator has been removed.

* The appendix to the rule is being rescinded because the information it presents has already been incorporated into the appendix to rule 5160-10-01 of the Ohio Administrative Code.

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 dated references to an ODM form. Each cited ODM form is generally available to the public on the ODM web site (<http://medicaid.ohio.gov>), in accordance with RC 121.72.

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.

\$0

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? No**

18. **Does this rule have an adverse impact on business? No**

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? 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 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