

## 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:**

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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, 5164.071
5. **What statute(s) does the rule implement or amplify?** 5164.02, 5164.071
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 proposed 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 5160-8-42, "Lactation consulting services," sets forth coverage and payment polices for lactation consulting services and is being proposed for recession with a new rule. The new rule establishes Medicaid payment for lactation consulting services when provided by skilled therapists, registered nurses, licensed practical nurses, dietitians, pharmacists and dentists.

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 another rule or rules of the Ohio Administrative Code. This question is not applicable to any incorporation by reference in another OAC rule because such reference is exempt from compliance with R.C. 121.71 to 121.74 pursuant to RC 121.75(A)(1)(d).

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

08/20/2024 -- In response to public hearing comments, 'lactation service' has been changed to 'lactation consultation service' throughout the rule. Problems with punctuation, grammar, and phrasing have been corrected.

07/22/2024 *We have been notified by JCARR that the incorrect CSIO recommendation was used for the original file of ERF 198226: Lactation Consulting. It appears that the recommendation for the Hospice rules was used instead.*

## **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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ODM already covers this service when rendered by a practitioner of physician services. ODM conducted a utilization review of this service and does not anticipate increase in usage.

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

This rule requires a license to engage in business with ODM.
  - 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