



JOHN R. KASICH
GOVERNOR
STATE OF OHIO

Executive Order 2017-01K

The Emergency Adoption of Rule 5160-3-18 of the Ohio Administrative Code
By the Ohio Department of Medicaid

WHEREAS, the Ohio Department of Medicaid (“ODM”) administers the Medicaid program.

WHEREAS, ODM has developed a nursing facility alternative purchasing model to care for individuals who are ventilator-dependent.

WHEREAS, ODM identified an enhanced payment rate for caring for individuals who are ventilator-dependent in order to reimburse nursing facilities for the higher costs associated with caring for these individuals and most importantly, to ensure adequate access to care.

WHEREAS, ODM collaborated with numerous stakeholders, including the nursing facility provider associations, nursing facility administrators and other state agencies in developing the rule.

WHEREAS, recently reported access-to-care issues for individuals who are ventilator-dependent have created an emergency.

WHEREAS, to ensure implementation of the new rule by February 1, 2017, ODM must adopt Ohio Administrative Code (“OAC”) Section 5160-3-18 to be effective on that date, but there is insufficient time for ODM to do so using the regular rule-filing process.

WHEREAS, sections 5160.02 and 5165.02 of the Ohio Revised Code authorize ODM to promulgate rules for the Medicaid program.

WHEREAS, division (G) of section 119.03 of the Ohio Revised Code authorizes the Governor, upon the request of a state agency, to suspend the normal rule-making procedures with respect to specific rules when an emergency exists necessitating the immediate adoption, amendment or rescission of such rules. When such a determination is made, the agency may immediately adopt, amend or rescind such rules, but the rules are valid only for 120 days.

WHEREAS, ODM has requested a determination that an emergency exists that requires the adoption of OAC Section 5160-3-18 on an emergency basis and that would therefore permit ODM, pursuant to section 119.03(G) and sections 5160.02 and 5165.02 of the Ohio Revised Code, to adopt this rule to be effective on February 1, 2017, to allow for the implementation of the alternative purchasing model on that date.

NOW THEREFORE, I John R. Kasich, Governor of the State of Ohio, have determined, upon the request of ODM, that an emergency exists requiring the adoption of OAC Section 5160-3-18 so that the rule will be in effect on February 1, 2017.

Furthermore, I hereby order that the procedures prescribed by section 119.03 of the Ohio Revised Code with respect to the adoption of the specified rule be suspended and that ODM be permitted to adopt OAC Section 5160-3-18 with an effective date of February 1, 2017, by filing it electronically with the Secretary of State, the Director of the Legislative Service Commission, and the Joint Committee on Agency Rule Review (“JCARR”).

Furthermore, I hereby order that this Executive Order be filed in electronic form with ODM, the Secretary of State, the Director of the Legislative Service Commission and JCARR.

I signed this Executive Order on January 17, 2017, in Columbus, Ohio, and it will expire one hundred twenty days (120) from the effective date of the emergency rule, or upon the adoption of the rule through the normal JCARR process, whichever is sooner.



John R. Kasich, Governor

ATTEST:

Jon Husted, Secretary of State