



MIKE DEWINE
GOVERNOR
STATE OF OHIO

Executive Order 2023-12D

The Emergency Adoption of Rule 5160-3-16.31 of the Ohio Administrative Code
By the Ohio Department of Medicaid

WHEREAS, the Ohio Department of Medicaid ("ODM") administers the Ohio Medicaid program; and

WHEREAS, on July 4, 2023, I signed Amended Substitute House Bill 33, 135th Ohio General Assembly, which, in part, established a private room incentive payment in Section 5165.158 of the Ohio Revised Code to provide enhanced rates to approved nursing facilities for residents in private rooms; and

WHEREAS, nursing home residents residing in a single occupancy room benefit from living in a more homelike environment, with improved sleep patterns and reduced risk of transmitting infectious disease; and

WHEREAS, Section 5165.158 of the Ohio Revised Code requires ODM to begin accepting applications for category one private rooms on January 1, 2024 and category two private rooms on March 1, 2024; and

WHEREAS, Section 5165.158 of the Ohio Revised Code authorizes ODM to specify evidence a nursing facility must supply to demonstrate that a room meets the definition of a private room and, therefore, entitles a nursing facility to a private room incentive payment; and

WHEREAS, an Administrative Code rule is necessary to specify the evidence required to demonstrate a private room; and

WHEREAS, Section 5165.02 of the Ohio Revised Code authorizes ODM to adopt rules as necessary to administer and implement the Ohio Medicaid program; and

WHEREAS, ODM must immediately adopt an Ohio Administrative Code rule in order to notify nursing facilities of the evidence required to demonstrate a private room and allow them to complete and submit an application for a private room incentive payment beginning on January 1, 2024; and

WHEREAS, Section 119.03(G) 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 one hundred and twenty (120) days; and

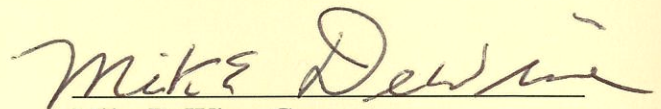
WHEREAS, ODM has requested a determination whether an emergency exists that requires the adoption of rule 5160-3-16.31 of the Ohio Administrative Code on an emergency basis and that would therefore permit ODM, pursuant to Section 5165.02 of the Ohio Revised Code, to immediately adopt this rule.

NOW THEREFORE, I, Mike DeWine, Governor of the State of Ohio, have determined, upon the request of ODM, that an emergency exists requiring the immediate adoption of rule 5160-3-16.31 of the Ohio Administrative Code.

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 the rule immediately 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 November 30, 2023, in Columbus, Ohio, and it will expire one-hundred and 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.


Mike DeWine, Governor

ATTEST:

Frank LaRose, Secretary of State

