

**Rule Summary and Fiscal Analysis (Part A)****Opportunities for Ohioans with Disabilities**

Agency Name

Division

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**3304-2-52**

Rule Number

**AMENDMENT**

TYPE of rule filing

Rule Title/Tag Line

**Least cost, use of comparable benefits, consumer contribution,  
and fees for services.****RULE SUMMARY**1. Is the rule being filed for five year review (FYR)? **No**2. Are you proposing this rule as a result of recent legislation? **No**3. Statute prescribing the procedure in accordance with the agency is required to adopt the rule: **119.03**4. Statute(s) authorizing agency to adopt the rule: **R.C.3304.15(C)(1),  
3304.15(D)**5. Statute(s) the rule, as filed, amplifies or implements: **R.C.3304.15(D), OAC  
3304-2-51, 3304-2-52, 3304-2-59,  
3304-2-60**

6. State the reason(s) for proposing (i.e., why are you filing,) this rule:

In 2012 OOD contracted with Public Consulting Group to make recommendations to establish a standardized VR Fee Schedule based on the current market rates. PCG recommended in their final report that OOD transition to cost-based rates.

OOD is required by 34 CFR 361.50 to establish and maintain written policies to govern the rates of payment for all purchased vocational rehabilitation services. The amended VR Fee Schedule will allow for a consistent rate of payment for vocational rehabilitations services, establish clear definitions for services being purchased with Federal/State funds, and ensure quality vocational services which will lead to employment outcomes for eligible individuals with disabilities. The rule also aligns the purchase of medical, dental, and psychological services to the established Ohio Medicaid rates. The proposed rule also aligns with priorities established in the Workforce Innovation & Opportunities Act (WIOA), such as an emphasis on Supported Employment. The proposed changes aim to simplify administrative reporting requirements for providers and to streamline the administrative review and processing within OOD.

7. If the rule is an AMENDMENT, then summarize the changes and the content of the proposed rule; If the rule type is RESCISSION, NEW or NO CHANGE, then summarize the content of the rule:

This is an amendment to the current rule, 3304-2-52 Least Cost, Use of Comparable Benefits, Consumer Contributions, and Fees for Services. Changes to the VR Fee Schedule include: clarification to current service definitions to ensure quality services; inclusion of new vocational service definitions and rates; changes in service rates to reflect cost informed rates based on information supplied by community rehabilitation programs (CRP); and alignment of rates for medical/dental/psychological services with Ohio Medicaid rates.

8. If the rule incorporates a text or other material by reference and the agency claims the incorporation by reference is exempt from compliance with sections 121.71 to 121.74 of the Revised Code because the text or other material is **generally available** to persons who reasonably can be expected to be affected by the rule, provide an explanation of how the text or other material is generally available to those persons:

OOD has established that it will use rates from the Ohio Medicaid fee schedule for medical, dental, and psychological services. The Ohio Medicaid rates are found as an attached appendix to OAC 5160-1-60. The Ohio Medicaid rates are also published online and can be accessed at the Ohio Department of Medicaid's website,  
<https://portal.ohmits.com/Public/Public%20Information/Fee%20Schedules/tabId/55/Default.aspx>.

9. If the rule incorporates a text or other material by reference, and it was **infeasible** for the agency to file the text or other material electronically, provide an explanation of why filing the text or other material electronically was

infeasible:

Not Applicable.

10. If the rule is being **rescinded** and incorporates a text or other material by reference, and it was **infeasible** for the agency to file the text or other material, provide an explanation of why filing the text or other material was infeasible:

*Not Applicable.*

11. If **revising** or **refiling** this rule, identify changes made from the previously filed version of this rule; if none, please state so. If applicable, indicate each specific paragraph of the rule that has been modified:

Refiling was needed to add Appendix A to the original rule filing as an Appendix. There has been No Changes in the rule language from the original filing in this package.

12. Five Year Review (FYR) Date: **4/13/2019**

(If the rule is not exempt and you answered NO to question No. 1, provide the scheduled review date. If you answered YES to No. 1, the review date for this rule is the filing date.)

NOTE: If the rule is not exempt at the time of final filing, two dates are required: the current review date plus a date not to exceed 5 years from the effective date for Amended rules or a date not to exceed 5 years from the review date for No Change rules.

### **FISCAL ANALYSIS**

13. Estimate the total amount by which *this proposed rule* would **increase/decrease** either **revenues /expenditures** for the agency during the current biennium (in dollars): Explain the net impact of the proposed changes to the budget of your agency/department.

This will increase expenditures.

\$2,726,426

Based on a comparison of actual Federal Fiscal Year 2016 expenditures of \$57,308,582.44, compared to proposed Fiscal Year 2017 expenditures of \$60,035,008.61, OOD estimates expenditures would increase by approximately 4.8% under the proposed fee schedule. This is a conservative estimate and does not include factors such as enhanced service rates based on qualifications and

performance indicators, e.g. rapid placement or substantial gainful activity.

14. Identify the appropriation (by line item etc.) that authorizes each expenditure necessitated by the proposed rule:

Fund Line Item Description

GRF 415506 Services for Individuals with Disabilities

4680 415618 Third Party Funding (State & Local sources)

4L10 415619 Services for Rehabilitation

3790 415616 VR - Consolidated Federal (OODs Federal Grant Dollars)

15. Provide a summary of the estimated cost of compliance with the rule to all directly affected persons. When appropriate, please include the source for your information/estimated costs, e.g. industry, CFR, internal/agency:

The proposed rule specifies the requirements and rates paid for vocational rehabilitation services. Participation in the provision of services by community rehabilitation programs (CRP) is voluntary. OOD does not collect any fees from providers. Rather, OOD is required to establish the rates it will pay based on the services provided.

As outlined above, OOD anticipates spending more money under the current proposed rate structure than under the existing rate structure. This is because we are rewarding performance and allocating additional funds for individuals with some of the most severe disabilities. OOD's primary goal with the proposed fee schedule is to provide the best possible service to individuals with disabilities in order to help them gain employment. While OOD acknowledges there may be limited scenarios where providers will not be able to bill as much as they did under the existing fee schedule, OOD is confident that the proposed fee schedule will have a net positive effect and continue to reward our best service providers to reach even more individuals with disabilities.

Some of the services that would have been negatively impacted by PCG proposed rates were held harmless by OOD, or given options for increasing compensation especially when providing services to underserved areas.

Many of the proposed rates represent no change or an increase to most services. OOD did add qualification requirements to three services (Work Incentives Planning, Work Incentives Coordination, and Supported Employment Job Development), but offset those requirements by increasing the rates. The proposed rule does not significantly change the delivery method for services, and the simplification of the proposed rate structures is expected to decrease reporting

requirements.

Current regulations place no ratio on the number of individuals with disabilities in a group that can be served by a single provider staff member. OOD defined group services as a one staff to four participant ratio (1:4). This requirement will likely increase costs to providers who were allowing one individual to serve more than four individuals with disabilities, but this is warranted to ensure safety and to maintain quality delivery of services to individuals with disabilities within a group. The proposed group size ratio is modeled after similar ratios in use at the Ohio Department of Developmental Disabilities (DODD).

In order to simplify reporting requirements, OOD included the costs for mileage and report writing fees into the base service rates. Previously, providers needed to track and report on a variety of administrative costs separately and bill for each individual item. At the request of the providers, OOD has eliminated these requirements to streamline the process and reduce the administrative burden for OOD and the providers.

OOD has also modified Job Development from hourly to performance based rates which will also result in significant efficiencies in the authorization, billing, and the reporting process for providers. Providers will no longer be required to specifically track hours and mileage for Job Development.

The proposed rates have performance based incentives that will allow our providers to continue a high level of service to individuals with disabilities, while also encouraging providers to strive for employment opportunities for the population we serve.

16. Does this rule have a fiscal effect on school districts, counties, townships, or municipal corporations? **No**

17. Does this rule deal with environmental protection or contain a component dealing with environmental protection as defined in R. C. 121.39? **No**

### **S.B. 2 (129th General Assembly) Questions**

18. Has this rule been filed with the Common Sense Initiative Office pursuant to R.C. 121.82? **Yes**

19. Specific to this rule, answer the following:

A.) Does this rule require a license, permit, or any other prior authorization to engage in or operate a line of business? **No**

No. However, CRPs are required to meet accreditation or certification requirements of OAC 3304-1-12. Medical/dental/psychological providers are required to be licensed by their respective licensing boards.

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**

Providers are required to submit a report to document service delivery in order to be paid. Providers are not required to make specific expenditures or reports on compliance.