

Rule Summary and Fiscal Analysis (Part A)**Department of Health**

Agency Name

Division

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3701-8-07.1

Rule Number

AMENDMENT

TYPE of rule filing

Rule Title/Tag Line

Early intervention individualized family service plan and service delivery.**RULE SUMMARY**

1. Is the rule being filed consistent with the requirements of the RC 119.032 review? **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: **3701.61**

5. Statute(s) the rule, as filed, amplifies or implements: **3701.61**

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

The rule is being proposed due to updates and clarifications related to federal Early Intervention regulations, the inter-agency partnership between DODD and ODH to lead Early Intervention; and to simplify existing rule.

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:

Rule 3701-8-07.1 is amended to provide clarification for program requirements for Early Intervention Individualized Family Service Plan (IFSP); to provide more flexibility for communicating with professional referral sources; and to place coordination of the federally mandated Child Outcomes in the responsibility of service coordinators. These requirements come from the federal "Individuals with Disabilities Education Act, Part C" program (Help Me Grow Early Intervention) 34 C.F. R. Parts 300 and 303. Also, minor clarifying changes are made to paragraph's (7.1)(B)(3z)

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:

This rule references the Ohio Administrative Code; the O.A.C. is generally available in libraries and on the internet to persons who reasonably can be expected to be affected by the rule. Also referenced are Department of Health (HEA) forms that will be available on the www.helpmegrow.ohio.gov website and provided upon approval of contract or grant.

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:

Exempt pursuant to Revised Code 121.75 and 121.76.

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:

6/24/2014 - Due to excellent public comment received immediately prior to the

June 16, 2014 public hearing, to make necessary edits due to typos or to eliminate form numbers, and to attach a correct appendix, ODH is further amending seven of its ten filed HMG rules/ In rule 3701-8-07.1 reference to form HEA 8032 is removed from paragraphs (A)(1)(a) and (A)(1)(b) to reduce regulatory burden. Also, minor changes are proposed to paragraphs (B)(3) and (H)(2) for the purpose of clarity.

5/30/2014 - Due to a scheduling error, the room has been changed for the public hearing for the rules in this package. ODH is revise filing this rule to attach a corrected public notice.

12. 119.032 Rule Review Date: **9/1/2017**

(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 have no impact on revenues or expenditures.

\$0.00

Not applicable

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

GRF DOH00A 440459, set forth in H.B. 472

Federal Early Intervention funds DOH01W 440618

Medicaid Administrative Claiming funds DOH99E 440646

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:

Applicants (e.g., The administrative agents of Family & Children First Councils in all 88 counties) who elect to apply for the available funds will be those affected. The cost of compliance is staff time for oversight and monitoring to meet the rule requirements in the Chapter of rules as they apply to these contractors. Estimated costs include personnel hours for an individual who will oversee meeting the agreement requirements.

16. Does this rule have a fiscal effect on school districts, counties, townships, or municipal corporations? **Yes**

You must complete Part B of the Rule Summary and Fiscal Analysis in order to comply with Am. Sub. S.B. 33 of the 120th General Assembly.

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**

Help Me Grow is a voluntary program, but requires a contract, grant, or agreement to participate and seek reimbursement. Moreover, in order to conduct evaluations or assessments on infants or toddlers to determine eligibility and/or need for early intervention services an individual must be licensed to perform the scope of services in accordance with Ohio law. That license may be in any of the following: counseling; early childhood education, when licensed for ages three through eight, grades kindergarten through third, or in special education; early childhood mental health; early intervention; hearing impairment intervention; medicine; nursing; occupational therapy; physical therapy; psychology; psychiatry; social work; speech-language pathology; and visual impairment intervention.

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? **Yes**

The department may take any of the actions listed in paragraph (B) of rule

3701-8-02.1 of the Administrative Code when contractors do not meet the terms of the service contract with ODH.

C.) Does this rule require specific expenditures or the report of information as a condition of compliance? **Yes**

This rule requires reporting data into the statewide data system for Help Me Grow as a condition of compliance.

Rule Summary and Fiscal Analysis (Part B)

1. Does the Proposed rule have a fiscal effect on any of the following?

| | | | |
|----------------------|--------------|---------------|----------------------------|
| (a) School Districts | (b) Counties | (c) Townships | (d) Municipal Corporations |
| No | Yes | No | No |

2. Please provide an estimate in dollars of the cost of compliance with the proposed rule for school districts, counties, townships, or municipal corporations. If you are unable to provide an estimate in dollars, please provide a written explanation of why it is not possible to provide such an estimate.

This rule requires that service coordination contractors meet the requirements for developing and maintaining the federally required care plan in Early Intervention#the IFSP, or Individualized Family Service Plan#throughout the time of Ohio Help Me Grow Early Intervention program eligibility. An annual allocation of grant dollars is provided to county administrative agents of the Family and Children First Councils in all 88 Ohio counties to pay for the cost, but because children eligible for Early Intervention are federally entitled to services needed, there may be additional county costs involved in serving the eligible child(ren).

3. If the proposed rule is the result of a federal requirement, does the proposed rule exceed the scope and intent of the federal requirement? **No**

4. If the proposed rule exceeds the minimum necessary federal requirement, please provide an estimate of, and justification for, the excess costs that exceed the cost of the federal requirement. In particular, please provide an estimate of the excess costs that exceed the cost of the federal requirement for (a) school districts, (b) counties, (c) townships, and (d) municipal corporations.

Not Applicable.

5. Please provide a comprehensive cost estimate for the proposed rule that includes the procedure and method used for calculating the cost of compliance. This comprehensive cost estimate should identify all of the major cost categories including, but not limited to, (a) personnel costs, (b) new equipment or other capital costs, (c) operating costs, and (d) any indirect central service costs.

Allocations must pay for the personnel to oversee the ODH grant which requires

the coordination of service coordinators, supervisors, and those personnel in each county who conduct evaluations to determine program eligibility and/or child assessment to determine need for Early Intervention services.

(a) Personnel Costs

Each county budgets their own personnel costs.

(b) New Equipment or Other Capital Costs

Each county budgets their own equipment costs.

(c) Operating Costs

Each county budgets their own operating costs.

(d) Any Indirect Central Service Costs

Each county budgets their own indirect costs.

(e) Other Costs

Each county budgets their own other costs.

6. Please provide a written explanation of the agency's and the local government's ability to pay for the new requirements imposed by the proposed rule.

This rule does not impose any new requirements, but was revised to simplify the federal requirements of Early Intervention (Part C of the Individuals with Disabilities Education Act). An annual allocation of grant dollars is provided to county administrative agents of the Family and Children First Councils in all 88 Ohio counties to pay for the cost, but because children eligible for Early Intervention are federally entitled to services needed, there may be additional county costs involved in serving the eligible child(ren). Local agencies must put MOUs or IAAs (Memorandums of Agreement or Inter-agency Agreements) in place to meet the county's obligation to serve all eligible children; which they all do with County boards of Developmental Disabilities as the major payor for EI services.

7. Please provide a statement on the proposed rule's impact on economic

development.

Given that the contract and the grant anticipated and planned for increased costs, the impact on economic development is not applicable. The grant provides for costs allowable in each contractor's budget and expenditures, based on current year referrals and children served.