

**Rule Summary and Fiscal Analysis (Part A)****Department of Job and Family Services**

Agency Name

**Division of Medical Assistance**

Division

**Nancy Van Kirk**

Contact

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**5101:3-1-17.8**

Rule Number

**NEW**

TYPE of rule filing

Rule Title/Tag Line

**Provider screening and application fee.****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? **Yes**

Bill Number: **HB153**General Assembly: **129**Sponsor: **Amstutz**

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: **5111.02, 5111.063**

5. Statute(s) the rule, as filed, amplifies or implements: **5111.02, 5111.063**

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

To implement provisions of ORC 5111.063, adopted under Am. Sub. H.B. 153, 129th General Assembly, and section 6401 of the Patient Protection and Affordable Care Act, relating to the provider screening and application fee requirements of the Medicaid program.

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 rule sets forth the requirement that providers meet certain provider screening requirements and pay an associated application fee. The rule defines three provider screening levels (limited, moderate, and high) and establishes the screening level for each provider type. The rule also specifies which providers must also pay an application fee when submitting an enrollment application. Additionally, the rule sets forth the amount of the application fee as determined by the Centers for Medicare and Medicaid Services.

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 incorporates one or more references to the U.S. Code. This question is not applicable to those references in this rule because such references are exempt from compliance with RC 121.71 to 121.74 in accordance with RC 121.76(B)(2).

This rule incorporates one or more references to the Ohio Revised Code. This question is not applicable to any incorporation by reference to the Ohio Revised Code because such reference is exempt from compliance with RC 121.71 to 121.74 pursuant to RC 121.76(A)(1).

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 to another OAC rule because such reference is exempt from compliance with RC 121.71 to 121.74 pursuant to RC 121.76(A)(3).

This rule incorporates one or more dated references to the Code of Federal Regulations (CFR). This question is not applicable to any dated incorporation by reference to the CFR because such reference is exempt from compliance with RC 121.71 to 121.74 in accordance with RC 121.75(D).

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:

11/21/11 Refiling

In the rule, paragraph (C)(3) was added to state the conditions in which a provider can receive a waiver from the application fee. Paragraph (C)(4) was added to state that if a provider has the application fee waived, they must still complete the provider screening requirements. Edited the reference in paragraph (C)(2) to properly reference the date.

11/16/11 Revise Filing

In the rule, paragraph (C)(2) was added to state that individual physicians and non-physician practitioners are exempt from paying an application fee in accordance with 42 C.F.R. 455.460. In the appendix, a row was added for targeted case management for persons with developmental disabilities. RSFA question 8 was updated to include the exemption for the incorporation by reference of a Code of Federal Regulations citation.

12. 119.032 Rule Review Date:

(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.

\$240,000

The department estimates an increase of \$80,000 in administrative costs in state fiscal year 2012, with \$40,000 as the state share and \$40,000 as the federal share. In fiscal year 2013, the department estimates an increase of \$160,000 in administrative costs with \$80,000 as the state share and \$80,000 as the federal share.

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

600525.

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:

Providers listed in the Appendix to this rule will have to pay an application fee which is set by the Center for Medicare and Medicaid Services in accordance with paragraph (a)(2)(C)(i) of 42 USC 1395cc(j) and is adjusted annually by the percentage change in the consumer price index for all urban consumers for the twelve-month period starting in June of the previous year. The current application fee is \$505.00.

There will be a cost to providers who are listed in the high screening level who must obtain a background check and fingerprints. The department estimates the Bureau of Criminal Investigation background check will cost providers a minimum of \$15 each but may cost more if not obtained via a law enforcement agency.

For all other costs relating to the provider screening requirements, the cost of compliance cannot be determined as it will depend on the provider type and the individual provider's business model.

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**

**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	Yes	Yes

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.

To the extent that a provider is a county, township, or municipal corporation, and is a provider type listed in the Appendix to this rule that will have to pay an application fee, there will be a cost of compliance. The amount of the application fee is set by the Center for Medicare and Medicaid Services and is adjusted annually by the percentage change in the consumer price index for all urban consumers for the twelve-month period starting in June of the previous year. The current application fee is \$505.00.

To the extent a provider is a county, township, or municipal corporation and is in the high screening level and must obtain a background check, there will be a cost of compliance. The department estimates that the Bureau of Criminal Investigation (BCI) background check will cost providers a minimum of \$15 but may cost more if not obtained via a law enforcement agency.

For all other costs related to the screening, the cost of compliance cannot be determined as it will depend on the provider type and the individual provider's business model.

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.

To the extent that a provider is a county, township, or municipal corporation, and is a provider type listed in the Appendix to this rule that will have to pay an application fee, there will be a cost of compliance. The amount of the application fee is set by the Center for Medicare and Medicaid Services and is adjusted annually by the percentage change in the consumer price index for all urban consumers for the twelve-month period starting in June of the previous year. The current application fee is \$505.00.

To the extent a provider is a county, township, or municipal corporation and is in the high screening level and must obtain a background check, there will be a cost of compliance. The department estimates that the Bureau of Criminal Investigation (BCI) background check will cost providers a minimum of \$15 but may cost more if not obtained via a law enforcement agency.

For all other costs related to the screening, the cost of compliance cannot be determined as it will depend on the provider type and the individual provider's business model.

**(a) Personnel Costs**

To the extent that a provider is a county, township, or municipal corporation, there will be personnel costs to providers in the high screening level who must obtain a background check. The department estimates that the Bureau of Criminal Investigation (BCI) background check will cost providers a minimum of \$15 but may cost more if not obtained via a law enforcement agency.

For all other personnel costs, the cost of compliance cannot be determined as it will depend on the provider type and the individual provider's business model.

**(b) New Equipment or Other Capital Costs**

To the extent that a provider is a county, township, or municipal corporation, there may be new equipment or other capital costs associated with the proposed rule. ODJFS the cost of compliance cannot be determined as it will depend on the provider type and the individual provider's business model.

(c) Operating Costs

To the extent that a provider is a county, township, or municipal corporation, and is a provider type listed in the Appendix to this rule that will have to pay an application fee, there will be a cost of compliance. The amount of the application fee is set by the Center for Medicare and Medicaid Services and is adjusted annually by the percentage change in the consumer price index for all urban consumers for the twelve-month period starting in June of the previous year. The current application fee is \$505.00. For all other operating costs, the cost of compliance cannot be determined as it will depend on the provider type and the individual provider's business model.

(d) Any Indirect Central Service Costs

To the extent that a provider is a county, township, or municipal corporation, there may be indirect central service costs associated with the proposed rule. ODJFS the cost of compliance cannot be determined as it will depend on the provider type and the individual provider's business model.

(e) Other Costs

To the extent that a provider is a county, township, or municipal corporation, there may be other costs associated with the proposed rule. ODJFS the cost of compliance cannot be determined as it will depend on the provider type and the individual provider's business model.

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.

The Ohio Department of Job and Family Services (ODJFS) or its designees will be administering the provider screening and application fee. Program administration costs have been included in the Department's budget.

To the extent that a provider is a county, township, or municipal corporation, there may be costs related to the provider screening and application fee proposed in this rule. These costs will be offset by rendering services to Medicaid consumers and receiving Medicaid reimbursement once enrolled.

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

No impact on economic development.