

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

Agency Name

Division of Medical Assistance

Division

Nancy Van Kirk

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Rule Number

AMENDMENT

TYPE of rule filing

Rule Title/Tag Line

Medicaid reimbursement.**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**

5. Statute(s) the rule, as filed, amplifies or implements: **5111.01, 5111.0112, 5111.02, 5111.021, Section 5111.021 of Am. Sub. H.B. 153**

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

To to update policy relating to the administration of the Medicaid program, to implement Section 4107 of Patient Protection and Affordable Care Act, Pub.L. No. 111-148, 124 Stat. 119 (Mar. 23, 2010), as amended by the Health Care and Education Reconciliation Act of 2010, Pub.L. No. 111-152, 124 Stat. 1029 (Mar. 30, 2010) (collectively the "ACA"), regarding mandatory Medicaid coverage of some tobacco cessation services, to implement Section 4106 of the ACA, regarding

preventive services for Medicaid recipients, and to implement Section 5111.021 of Am. Sub. H.B. 153, 129th GA, which sets a Medicaid reimbursement limit for noninstitutional providers of the amount paid for the same service under the Medicare 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 Ohio Medicaid coverage and fee-for-service reimbursement for all professional providers. Changes to the appendix to the rule include the addition of coverage and reimbursement information for tobacco cessation counseling (99406 and 99407), tobacco cessation classes (S9453), and medical nutrition therapy (97802-97804). In addition, the reimbursement rate for 105 services is being lowered to 100% of the 2011 Medicare fee schedule, the Medicaid reimbursement ceiling for professional claims. No changes were made to the rule body itself.

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 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 ORC 121.71 to 121.74 pursuant to ORC 121.76(A)(3).

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:

Not Applicable.

12. 119.032 Rule Review Date: **3/1/2015**

(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.

\$2.93 million

The coverage of three tobacco cessation codes is estimated to increase expenditures by \$30,000 over the remainder of the current biennium.

The coverage of three medical nutrition therapy codes is estimated to increase expenditures by \$5.4 million over the remainder of current state fiscal biennium.

The decrease in reimbursement of 105 codes to 100 per cent of the Medicare rate, is estimated to decrease expenditures by \$2.5 million over the remainder of the current state fiscal biennium

The combined increase in expenditures over the remaining 18 months of the current biennium is estimated to be \$2,930,000. These costs were included in the projections for the biennial budget.

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:

There may be a cost of compliance for some Medicaid providers related to adding coverage for the new codes for tobacco cessation and medical nutrition services. A provider that wishes to receive reimbursement for these services may be required to update its billing practices and/or computer software. The cost of compliance associated with these updates cannot be estimated by the Department because these costs will vary depending on the services that the provider delivers and the population that it serves. Furthermore, these costs may be offset if the provider receives additional Medicaid reimbursement as a result of its ability to bill the new codes.

Other changes in this rule will reduce Medicaid reimbursement for 105 noninstitutional services to the rate that Medicare pays for the same services. To the extent that this reduction in reimbursement is a cost of compliance, providers will be subject to a cost of compliance when they bill for the affected services. The Department cannot provide an estimate of the impact in reimbursement, because the amount of the reduction will vary from provider to provider, depending on the business model and the frequency at which they bill for the affected services.

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 Medicaid provider is also a county, township, or municipal corporation, there may be a cost of compliance for some Medicaid providers related to adding coverage for the new codes for tobacco cessation and medical nutrition services. A provider that wishes to receive reimbursement for these services may be required to update its billing practices and/or computer software. The cost of compliance associated with these updates cannot be estimated by the Department because these costs will vary depending on the services that the provider delivers and the population that it serves. Furthermore, these costs may be offset if the provider receives additional Medicaid reimbursement as a result of its ability to bill the new codes.

Other changes in this rule will reduce Medicaid reimbursement for 105 noninstitutional services to the rate that Medicare pays for the same services. To the extent that this reduction in reimbursement is a cost of compliance, and to extent that providers of these services are counties, townships, or municipal corporations, providers will be subject to a cost of compliance when they bill for the affected services. The Department cannot provide an estimate of the impact in reimbursement, because the amount of the reduction will vary from provider to provider, depending on the business model and the frequency at which they bill for the affected services.

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.

There may be costs of compliance associated with the policy changes discussed above. The comprehensive cost estimates are addressed below.

(a) Personnel Costs

To the extent that a Medicaid provider is also a county, township, or municipal corporation, there may be an impact on personnel costs; however, the Department is unable to determine the impact. A provider that wishes to receive reimbursement for the new tobacco cessation and medical nutrition services may be required to update its billing practices and/or computer software. The costs associated with these updates cannot be estimated by the Department because they will vary depending on the services that the provider delivers and the population that it serves. Furthermore, these costs may be offset if the provider receives additional Medicaid reimbursement as a result of its ability to bill the new codes.

Other changes in this rule will reduce Medicaid reimbursement to providers of noninstitutional services. To the extent that this reduction in reimbursement is a cost of compliance, and to the extent that providers of these services are counties, townships or municipal corporations, providers may receive less revenue that can be used to cover any indirect central service costs. ODJFS cannot provide an estimate of the impact in reimbursement, because the amount of the reduction will vary from provider to provider, depending on their business model and the frequency at which they bill for the affected services.

(b) New Equipment or Other Capital Costs

To the extent that a Medicaid provider is also a county, township, or municipal corporation, there may be an impact on new equipment or other capital costs; however, the Department is unable to determine the impact. A provider that wishes to receive reimbursement for the new tobacco cessation and medical nutrition services may be required to update its billing practices

and/or computer software. The costs associated with these updates cannot be estimated by the Department because they will vary depending on the services that the provider delivers and the population that it serves. Furthermore, these costs may be offset if the provider receives additional Medicaid reimbursement as a result of its ability to bill the new codes.

Other changes in this rule will reduce Medicaid reimbursement to providers of noninstitutional services. To the extent that this reduction in reimbursement is a cost of compliance, and to the extent that providers of these services are counties, townships or municipal corporations, providers may receive less revenue that can be used to cover any indirect central service costs. ODJFS cannot provide an estimate of the impact in reimbursement, because the amount of the reduction will vary from provider to provider, depending on their business model and the frequency at which they bill for the affected services.

(c) Operating Costs

To the extent that a Medicaid provider is also a county, township, or municipal corporation, there may be an impact on operating costs; however, the Department is unable to determine the impact. A provider that wishes to receive reimbursement for the new tobacco cessation and medical nutrition services may be required to update its billing practices and/or computer software. The costs associated with these updates cannot be estimated by the Department because they will vary depending on the services that the provider delivers and the population that it serves. Furthermore, these costs may be offset if the provider receives additional Medicaid reimbursement as a result of its ability to bill the new codes.

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(d) Any Indirect Central Service Costs

To the extent that a Medicaid provider is also a county, township, or municipal corporation, there may be an impact on indirect central service

costs; however, the Department is unable to determine the impact. A provider that wishes to receive reimbursement for the new tobacco cessation and medical nutrition services may be required to update its billing practices and/or computer software. The costs associated with these updates cannot be estimated by the Department because they will vary depending on the services that the provider delivers and the population that it serves. Furthermore, these costs may be offset if the provider receives additional Medicaid reimbursement as a result of its ability to bill the new codes.

Other changes in this rule will reduce Medicaid reimbursement to providers of noninstitutional services. To the extent that this reduction in reimbursement is a cost of compliance, and to the extent that providers of these services are counties, townships or municipal corporations, providers may receive less revenue that can be used to cover any indirect central service costs. ODJFS cannot provide an estimate of the impact in reimbursement, because the amount of the reduction will vary from provider to provider, depending on their business model and the frequency at which they bill for the affected services.

(e) Other Costs

To the extent that a Medicaid provider is also a county, township, or municipal corporation, there may be an impact on other costs; however, the Department is unable to determine the impact. A provider that wishes to receive reimbursement for the new tobacco cessation and medical nutrition services may be required to update its billing practices and/or computer software. The costs associated with these updates cannot be estimated by the Department because they will vary depending on the services that the provider delivers and the population that it serves. Furthermore, these costs may be offset if the provider receives additional Medicaid reimbursement as a result of its ability to bill the new codes.

Other changes in this rule will reduce Medicaid reimbursement to providers of noninstitutional services. To the extent that this reduction in reimbursement is a cost of compliance, and to the extent that providers of these services are counties, townships or municipal corporations, providers may receive less revenue that can be used to cover any indirect central service costs. ODJFS cannot provide an estimate of the impact in reimbursement, because the amount of the reduction will vary from provider to provider, depending on their business model and the frequency at which they bill for the affected services.

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 Department included the cost of covering these new services in the projections for the 2012-2013 biennial budget. To the extent that a Medicaid provider is also a county, township, or municipal corporation, there may be costs of compliance; however, these may be partially offset by the allowance of reimbursement for these services.

Reduction in Medicaid reimbursement to providers was included in RC 5111.021 of the biennial budget. To the extent that a Medicaid provider is also a county, township, or municipal corporation, there may be costs of compliance; however, the impact on local government cannot be estimated because the amount of reduction will vary from provider to provider, depending on their business model and the frequency at which they bill the reduced services. Therefore, the local government's ability to pay cannot be estimated.

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

To the extent that a Medicaid provider is also a county, township or municipal corporation, these rule changes may impact their revenues or operations. We cannot determine how the revenues from these government owned providers impacts the revenues or operations of the government entity that owns them, but we anticipate that the changes made by this rule will have no discernible impact on economic development.