

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

Agency Name

**Division of Medical Assistance**

Division

**Mike Lynch**

Contact

**30 E. Broad St., 31st Floor ODJFS, Office of Legal Services Columbus OH 43215-3414**

Agency Mailing Address (Plus Zip)

**614-466-4605**

Phone

**614-752-8298**

Fax

**Michael.Lynch@jfs.ohio.gov**

Email

**5101:3-1-60**

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? **Yes**

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: **5111.02**

5. Statute(s) the rule, as filed, amplifies or implements: **5111.01, 5111.0112, 5111.02, 5111.021**

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

To incorporate changes associated with the 2012 update of the Healthcare Common Procedure Coding System (HCPCS), which includes Current Procedural Terminology (CPT) codes. The Centers for Medicare and Medicaid Services (CMS), in conjunction with the American Medical Association and other professional groups, update HCPCS on an annual basis. HCPCS is a medical procedure coding system that is the national standard for reporting medical services

for billing and claims payment purposes. The department must implement the HCPCS update for the Medicaid program to comply with the federal Health Insurance Portability and Accountability Act (HIPAA).

This rule is also being amended to reflect compliance with Section 5111.02 of the Ohio Revised Code, which requires Medicaid program reimbursement for a medical service to not exceed reimbursement limits for the same service under the Medicare program.

In addition, this rule is being proposed to provide coverage and reimbursement for Oncotype Dx testing.

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:

Changes include the addition of new (HCPCS) codes, deletion of obsolete HCPCS codes, and updates to the fee schedules for HCPCS codes.

The rule amendments also reduce reimbursements for some services so that reimbursement does not exceed reimbursement for the same services under the Medicare program.

Coverage and reimbursement information has been added for Oncotype Dx.

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 RC 121.71 to 121.74 pursuant to RC 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. If applicable, indicate each specific paragraph of the rule that has been modified:

*Not Applicable.*

12. 119.032 Rule Review Date: **1/13/2012**

(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 decrease expenditures.

\$5.08 million

Two factors will have a significant budget impact over the remaining fifteen months of the current biennium. Limitation of reimbursement for medical services to no more than the amounts paid by the Medicare program will decrease expenditures by about \$5.59 million. The coverage and reimbursement of Oncotype DX, a genetic profile panel test for breast cancer patients, is expected to increase expenditures by \$509,000.

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:

The changes in this rule will reduce Medicaid reimbursement to providers. 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 their business model and the frequency at which they bill the affected codes.

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? **No**

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**

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**

**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
<b>Yes</b>	<b>Yes</b>	<b>Yes</b>	<b>Yes</b>

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 school district, county, township or municipal corporation, there may be a cost of compliance. However, it cannot be estimated. Every year, the Healthcare Common Procedure Coding System (HCPCS) is updated with new and deleted codes. All payers require providers to use this coding system when billing for services. In order to comply, providers must use the updated billing codes and may incur costs associated with updating billing software. Because providers use different software packages to create invoices, the Department is unable to provide an estimate of the cost of compliance with this rule. The fiscal impact of the services affected by this proposed rule will be provider specific and based on each provider's current business model for service delivery. Thus, the Department cannot quantify the cost of compliance.

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 provided below.

**(a) Personnel Costs**

To the extent that a Medicaid provider is also a school district, county, township or municipal corporation, there may be an impact on personnel costs; however, the Department is unable to determine the impact. Every year, the Healthcare Common Procedure Coding System (HCPCS) is updated with new and deleted codes. All payers require providers to use this coding system when billing for services. In order to comply, providers must use the updated billing codes and may incur personnel costs associated with updating billing software. The fiscal impact of the services affected by this proposed rule will be provider specific and based on each provider's current business model for service delivery. Thus, the Department cannot quantify the fiscal impact.

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

To the extent that a Medicaid provider is also a school district, county, township or municipal corporation, there may be an impact on equipment/capital costs; however, the Department is unable to determine the impact. Every year, the Healthcare Common Procedure Coding System (HCPCS) is updated with new and deleted codes. All payers require providers to use this coding system when billing for services. In order to comply, providers must use the updated billing codes and may incur equipment/capital costs associated with updating billing software. The fiscal impact of the services affected by this proposed rule will be provider specific and based on each provider's current business model for service delivery. Thus, the Department cannot quantify the fiscal impact.

**(c) Operating Costs**

To the extent that a Medicaid provider is also a school district, county, township or municipal corporation, there may be an impact on operating costs; however, the Department is unable to determine the impact. Every year, the Healthcare Common Procedure Coding System (HCPCS) is updated with new and deleted codes. All payers require providers to use this coding system when billing for services. In order to comply, providers must use the updated billing codes and may incur operating costs associated with updating billing software. The fiscal impact of the services affected by this proposed

rule will be provider specific and based on each provider's current business model for service delivery. Thus, the Department cannot quantify the fiscal impact.

(d) Any Indirect Central Service Costs

To the extent that a Medicaid provider is also a school district, county, township or municipal corporation, there may be an impact on indirect costs; however, the Department is unable to determine the impact. Every year, the Healthcare Common Procedure Coding System (HCPCS) is updated with new and deleted codes. All payers require providers to use this coding system when billing for services. In order to comply, providers must use the updated billing codes and may incur indirect costs associated with updating billing software. The fiscal impact of the services affected by this proposed rule will be provider specific and based on each provider's current business model for service delivery. Thus, the Department cannot quantify the fiscal impact.

(e) Other Costs

To the extent that a Medicaid provider is also a school district, county, township or municipal corporation, there may be an impact on other costs; however, the Department is unable to determine the impact. Every year, the Healthcare Common Procedure Coding System (HCPCS) is updated with new and deleted codes. All payers require providers to use this coding system when billing for services. In order to comply, providers must use the updated billing codes and may incur other costs associated with updating billing software. The fiscal impact of the services affected by this proposed rule will be provider specific and based on each provider's current business model for service delivery. Thus, the Department cannot quantify the fiscal impact.

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.

To the extent that a Medicaid provider is also a school district, county, township or municipal corporation, there may be costs of compliance; however, the Department is unable to determine the impact. Every year, the Healthcare Common Procedure Coding System (HCPCS) is updated with new and deleted codes. All payers require providers to use this coding system when billing for services. In order to comply, providers must use the updated billing codes and may incur costs associated with updating billing software. Because this process occurs annually, providers

anticipate this impact and plan accordingly.

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

Every year, the Healthcare Common Procedure Coding System (HCPCS) is updated with new and deleted codes. All payers require providers to use this coding system when billing for services. There is no discernable impact on economic development related to making these updates, although using updated codes ensures appropriate reimbursement to providers.