Rule Summary and Fiscal Analysis (Part A)

Department of Job and Family Services
Agency Name

Division of Medical Assistance
Division

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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? **No**

2. Are you proposing this rule as a result of recent legislation? **Yes**

Bill Number: **HB59** General Assembly: **130** 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: **5164.02**

5. Statute(s) the rule, as filed, amplifies or implements: **5162.03, 5162.20, 5164.02, 5164.70**

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

This rule is being amended to implement provisions adopted under Am. Sub. H.B. 59, 130th G.A., pertaining to the administration of the Medicaid program and to update policy governing the administration 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:

Rule 5160-1-60 sets forth payment policies for services furnished by professional providers.

Within the body of the rule, one unnecessary sentence is eliminated. In addition to minor nonsubstantive corrections, several significant changes are made to the appendix:

* For each of more than 1,700 procedures, two separate maximum fees are established. One maximum fee applies when the procedure is performed in a non-facility setting such as a physician's office; the other applies when the procedure is performed in an institutional setting such as a hospital or a skilled nursing facility. These fees are shown in two new columns that have been added to the table.

* Maximum fee amounts for more than 100 genetic procedures are updated. Most of these procedures involve molecular pathology; the fees for these "mopath" procedures are based on allowed payment amounts recently established by the Centers for Medicare & Medicaid Services (CMS).

* Maximum fee amounts for oxygen services are removed and listed instead in the new appendix to revised rule 5160-10-13 of the Administrative Code.

* Pursuant to section 5164.70 of the Ohio Revised Code and paragraph (D) of this rule, the maximum fees for certain procedures, services, or supplies are reduced so that they do not exceed the corresponding maximum Medicare allowed amounts.

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:

Several omissions in the appendix to the rule are corrected. No additional change is made to the rule body.

12. 119.032 Rule Review Date: **12/1/2018**

(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.

$9 million

It is estimated that the implementation of site-differential payment will result in a total decrease in Medicaid expenditures over the remainder of the biennium of approximately $11.25 million, and the new fees established for molecular pathology procedures may result in a total increase of approximately $1.50 to 2.25 million. The net effect is a decrease of approximately $9 million.

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

651525

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 may reduce Medicaid payment for some providers and increase it for others. To the extent that a reduction in payment for services is a cost of compliance, providers will be subject to a cost of compliance when they submit claims for the affected services. The Department cannot provide an estimate of the impact on a particular provider, because the amount of any reduction will depend on which services are provided, how often they are rendered, and at what location (site) they are rendered.

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**

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? **Yes**

Providers are required to submit claims in order to receive Medicaid payment. On each claim, a provider reports many pieces of information, such as the identity of the person served, the services provided, related diagnoses, the date of service, and the place of service.

Rule 5160-1-60 also has particular reporting requirements: (1) When a recipient has third-party coverage (e.g., by a private insurance company), a provider is required to report service information to the third-party payer in the form of a claim. (2) The "submitted charge" reported on a Medicaid claim must be a provider's usual and customary charge.

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
Yes	**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 an entity controlled by a school district, county, township, or municipal corporation, it could be affected by the proposed rule.

   The changes in this rule may reduce Medicaid payment for some providers and increase it for others. To the extent that a reduction in payment for services can be considered a cost of compliance, providers will be subject to a cost of compliance when they submit claims for the affected services. The department cannot provide an estimate of the impact on a particular provider, however, because the amount of any reduction will depend on which services are provided, how often they are rendered, and in what location (site) they are rendered.

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.

Comprehensive cost estimates are provided in the following sections.

(a) Personnel Costs

The department does not expect that the proposed rule will result in any increase to Medicaid providers in personnel costs.

(b) New Equipment or Other Capital Costs

The department does not expect that the proposed rule will result in any increase to Medicaid providers in new equipment or other capital costs.

(c) Operating Costs

The department does not expect that the proposed rule will result in any increase to Medicaid providers in operating costs.

(d) Any Indirect Central Service Costs

The department does not expect that the proposed rule will result in any increase to Medicaid providers in indirect central service costs.

(e) Other Costs

To the extent that a reduction in payment for services can be considered a cost of compliance, providers will be subject to a cost of compliance when they submit claims for the affected services. The department cannot provide an estimate of the impact on a particular provider, however, because the amount of any reduction will depend on which services are provided, how often they are rendered, and in what location (site) they are rendered.

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.

Incorporation of the proposed fee structure changes into the department's claim-processing system is part of the administration of the Medicaid program; it entails no significant new costs for the department.

None of the changes in the proposed rule requires a provider to modify its business

practices; therefore, no implementation cost is anticipated for any local government or political subdivision.

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

This proposed rule has no discernible impact on economic development.