

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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5101:3-26-03

Rule Number

AMENDMENT

TYPE of rule filing

Rule Title/Tag Line

Managed health care programs: covered services.**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: **Representative
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, 5111.16, 5111.162, 5111.17**

5. Statute(s) the rule, as filed, amplifies or implements: **5111.01, 5111.02, 5111.021, 5111.16, 5111.162, 5111.163, 5111.17, 5111.172, section 309.37.50 of Am. Sub. H.B. 153, 129th G.A.**

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

This rule is being amended to carve back in the pharmacy benefit in the Medicaid Managed Care Program pursuant to provisions of ORC 5111.172, as adopted under Am. Sub. H.B. 153, 129th G.A., and section 309.37.50 of Am. Sub. H.B. 153,

129th G.A.

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 services that Medicaid managed care plans are required to provide to Medicaid managed care members. The changes to the rule remove the pharmacy benefit (prescribed drugs and certain medical supplies) from the list of coverage exclusions under Medicaid managed health care programs, to support carving the pharmacy benefit back into the list of services provided by Medicaid managed care plans. References to the Ohio Department of Mental Retardation and Developmental Disabilities were replaced with references to the Ohio Department of Developmental Disabilities. The changes also clarify existing policy that allows managed care plan members to self-refer to mental health services offered by the Ohio Department of Mental Health.

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 Ohio Administrative Code rule because such reference is exempt from compliance with ORC 121.71 to 121.74 pursuant to ORC 121.76(A)(3).

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 ORC 121.71 to 121.74 pursuant to ORC 121.75(A).

This rule incorporates one or more references to the Social Security Act. This question is not applicable to those references in this rule because such references are exempt from compliance with ORC 121.71 to 121.74 pursuant to ORC 121.76(B)(2).

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: **1/1/2013**

(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.

\$114,000,000

This rule is being proposed to support carving pharmacy and certain medical supplies back in to the managed care plans' benefit packages. This change will result in a net increase in expenditures of \$97 million in SFY 2012 and \$17 million in SFY 2013. This increase is due to the up-front capitation payments made by ODJFS versus provider payments made for prescribed drugs and certain medical supplies. Overall care coordination will produce long-term savings for the state that are not included in this estimate.

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 may change revenue to pharmacy providers because the Medicaid managed care plan reimbursement may be higher or lower than the fee-for-service reimbursement, and because a pharmacy provider may or may not be contracted with a managed care plan to provide services to their members. To the extent that any reduction in reimbursement is a cost of compliance, providers will be subject to a cost of compliance if the managed care plan reimbursement is lower or if the managed care plan does not contract with the pharmacy. The actual cost for each provider cannot be estimated, because the cost will vary from provider to provider depending on their business model and the frequency at which they bill for the affected services. The changes in the rule may impact Medicaid consumers enrolled in MCPs if they need to move their prescriptions to a pharmacy within the MCP's network and may be subject to a different prior authorization policy than what is required by the Medicaid fee-for-service program. To the extent that transferring their prescriptions to a pharmacy within the MCP's network and following a different prior authorization policy is a cost of compliance, these costs cannot be estimated by the Department as the costs would depend on the affected drugs utilized by the consumer and the extent to which these drugs are subject to prior authorization requirements. Additionally, the consumer may need to obtain certain medical supplies from a different provider in order to continue receiving their supplies. The amount of the cost of compliance cannot be estimated because the costs associated with changing providers will vary from consumer to consumer, depending on the medical supplies they have, the location of their providers and what type of services the providers provide. In the past, only one of the seven Medicaid MCPs has charged co-payments to its members. Medicaid consumers enrolled in MCPs may benefit from no longer needing to pay co-payments for the pharmacy benefit.

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.

The changes in this rule may change revenue to pharmacy providers because the Medicaid managed care plan reimbursement may be higher or lower than the fee-for-service reimbursement, and because a pharmacy provider may or may not be contracted with a managed care plan to provide services to their members. To the extent that any reduction in reimbursement is a cost of compliance, and to the extent that providers of these services are counties, townships, or municipal corporations, providers will be subject to a cost of compliance if the managed care plan reimbursement is lower or if the managed care plan does not contract with the pharmacy. It is not possible to provide an estimate. The actual cost for each provider cannot be estimated, because the cost will vary from provider to provider depending on their business model and the frequency at which they bill for the affected services. There may also be an increase in sales tax revenue resulting from the increase in managed care plan capitation rates that are subject to sales tax. ODJFS is unable to estimate the impact on local governments.

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.

The changes in this rule may change revenue to pharmacy providers because the Medicaid managed care plan reimbursement may be higher or lower than the fee-for-service reimbursement, and because a pharmacy provider may or may not be contracted with a managed care plan to provide services to their members. To the extent that any reduction in reimbursement is a cost of compliance, and to the extent that providers of these services are counties, townships, or municipal corporations, providers will be subject to a cost of compliance if the managed care plan reimbursement is lower or if the managed care plan does not contract with the pharmacy. It is not possible to provide an estimate. The actual cost for each provider cannot be estimated, because the cost will vary from provider to provider depending on their business model and the frequency at which they bill for the affected services.

(a) Personnel Costs

The changes in this rule may change revenue to pharmacy providers because the Medicaid managed care plan reimbursement may be higher or lower than the fee-for-service reimbursement, and because a pharmacy provider may or may not be contracted with a managed care plan to provide services to their members. 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 personnel 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

The changes in this rule may change revenue to pharmacy providers because

the Medicaid managed care plan reimbursement may be higher or lower than the fee-for-service reimbursement, and because a pharmacy provider may or may not be contracted with a managed care plan to provide services to their members. 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 new equipment or other capital 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

The changes in this rule may change revenue to pharmacy providers because the Medicaid managed care plan reimbursement may be higher or lower than the fee-for-service reimbursement, and because a pharmacy provider may or may not be contracted with a managed care plan to provide services to their members. 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 operating 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.

(d) Any Indirect Central Service Costs

The changes in this rule may change revenue to pharmacy providers because the Medicaid managed care plan reimbursement may be higher or lower than the fee-for-service reimbursement, and because a pharmacy provider may or may not be contracted with a managed care plan to provide services to their members. 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

The changes in this rule may change revenue to pharmacy providers because

the Medicaid managed care plan reimbursement may be higher or lower than the fee-for-service reimbursement, and because a pharmacy provider may or may not be contracted with a managed care plan to provide services to their members. 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 other 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 increase in expenditures resulting from this proposed rule were assumed in appropriations to ODJFS in Am. Sub. H.B. 153, 129th G.A. ODJFS is unable to determine the local government's ability to pay for any impact in reimbursement or administrative costs that may be incurred by pharmacies that are operated by local governments, because the amount of the impact will vary from provider to provider depending on the business model and the frequency at which they bill for the affected services.

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

The potential change in reimbursement to pharmacy providers is not expected to have an impact on economic development. Premiums received by Ohio Medicaid managed care plans are subject to sales and use tax, so the increase in capitation rates to support the changes in this rule are estimated to increase tax revenues. However, we are unable to estimate the impact on economic development.