

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

Agency Name

Division of Medical Assistance

Division

Mike Lynch

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5101:3-35-04

Rule Number

AMENDMENT

TYPE of rule filing

Rule Title/Tag Line

Reimbursement for services provided by medicaid school program (MSP) providers.**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: **5111.02**

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

This proposed rule is being amended to incorporate federal mandates of the Individuals with Disabilities Education Act (IDEA) which requires schools to provide specific healthcare benefits to children with special needs.

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:

The purpose of this rule is to provide opportunity for schools to receive Medicaid reimbursement for the healthcare services they provide to the Medicaid eligible children ages 3 to 21 who receive the services through an Individualized Education Program (IEP) developed in accordance with Individuals with Disabilities Education Act (IDEA).

The followings summarizes the changes to the content of the proposed rule:

To add language to paragraph (J) to clarify the submission of claims for services delivered in a group setting.

To revise paragraph (K)(2) for clarity about the cost report.

To add an additional paragraph, that is now (K)(3), to address cost report extensions.

To revise the previous paragraph (K)(3), that is now (K)(4), to incorporate language addressing the result of a MSP provider failing to submit the cost report.

To revise paragraph (L) to change the record retention period from six years from the date of receipt of payment to six years from the end of the cost reporting period.

To add five new services to the appendix:

92526 SLP, OT, PT Treatment of swallowing dysfunction and/or oral function for feeding; each \$55.16

92609 SLP Therapeutic services for the use of speech-generating device, including programming and modification; each \$60.76

92610 SLP, OT, PT Evaluation of oral and pharyngeal swallowing function; each \$43.54

97535 OT, PT Self care/home management training, direct one-on-one contact; 15 minutes \$23.50

97537 OT, PT Community/work reintegration training, direct one-on-one contact; 15 minutes \$20.83

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 dated references to the U.S. Code. This question

is not applicable to any dated incorporation by reference to the U.S. Code because such reference is exempt from compliance with RC 121.71 to 121.74 in accordance with RC 121.75(A).

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).

This rule incorporates one or more references to another rule or rules of the Ohio Administrative Code. This question is not applicable to incorporation by reference to another OAC rule because such reference is exempt from compliance with RC 121.71 to 121.74 in accordance with 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:

8/27/09

This rule is being revised to change the service code 96153 from "15 minutes" to "each" and to change the service code 97150 from "15 minutes" to "each".

12. 119.032 Rule Review Date: **7/30/2009**

(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 have no impact on revenues or expenditures.

0.00

There is no overall impact to ODJFS as a result of this proposed rule as Ohio department of job and family services (ODJFS) will only pass the federal financial participation (FFP) share of reimbursement for expenditures through to Medicaid School Program (MSP) providers. FFP revenues received by ODJFS and passed through to MSP providers are estimated to be \$65.4 million, in the aggregate, during SFY 2010.

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

Not applicable

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:

Data from the previous Medicaid reimbursement methodology for schools (Community Alternative Funding System) was used as the basis of projecting costs for the Medicaid School Program (MSP). Overall, MSP providers will receive an increase in revenue as a result of implementing the MSP. The increase in revenue to MSP providers is estimated to be approximately \$65.4 million in federal funds in state fiscal year 2010. The MSP provider will be responsible for the non-federal funds share of costs. Therefore, although there will be an increase in expenditures for Ohio's Medicaid program, there is no increase in expenditure of state funds anticipated as a result of implementing the MSP. There may be an increase in administration costs as a result of implementing MSP.

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
Yes	Yes	No	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 aggregate increase in expenditures for Ohio's medicaid program as a result of implementing the medicaid school program (MSP) is estimated to be approximately \$65.4 million in federal funds in state fiscal year 2010. The MSP provider will be responsible for the non-federal share of costs. Therefore, there is no increase in expenditure of state funds anticipated as a result of implementing the medicaid school program.

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 MSP will allow reimbursement for services provided by schools to Medicaid eligible children ages 3 to 21 who receive services indicated in an individualized education program (IEP) developed in accordance with individuals with disabilities

education act (IDEA). Prior to July 1, 2005, there existed a medicaid reimbursement methodology that allowed schools to submit claims for reimbursement for medicaid allowable services. Since MSP is relatively new, data from the previous reimbursement methodology was used as the basis of projecting costs for MSP.

(a) Personnel Costs

MSP will allow reimbursement for personnel costs associated with the provision of service. MSP may result in an increase in revenue through the federal financial participation (FFP) to schools, thus allowing for increase in the number of personnel and consequently a higher personnel cost. Any specific impact to costs due the increase in revenue could vary by school, and cannot be estimated at this time.

(b) New Equipment or Other Capital Costs

MSP will allow reimbursement for equipment costs indicated as necessary for a child with an IEP that is associated with the provision of service to the child. This may result in an increase in revenue through the FFP to schools, thus allowing for increase in equipment purchase and consequently a higher equipment cost. Any specific impact to costs due the increase in revenue could vary by school, and cannot be estimated at this time.

(c) Operating Costs

MSP may result in an increase in revenue through the federal financial participation (FFP) to schools. Any specific impact to costs due the increase in revenue could vary by school, and cannot be estimated at this time.

(d) Any Indirect Central Service Costs

MSP will allow reimbursement for indirect costs, thus, MSP may result in an increase in revenue through the federal financial participation (FFP) to schools. Any specific impact to costs due the increase in revenue could vary by school, and cannot be estimated at this time.

(e) Other Costs

Any specific impact to costs due the increase in revenue could vary by school, and cannot be estimated at this time.

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 schools are responsible, programmatically and fiscally, for the provision of services in accordance with IDEA. MSP will allow medicaid reimbursement for a portion of the costs for the services for which schools are responsible. The schools will maintain responsibility for the non-federal share of the costs; this responsibility is not a change. MSP providers need to comply with the requirements the MSP in order to receive medicaid reimbursement for services provided.

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

It is anticipated that the proposed rule, because of the increase in federal dollars, may allow for the increase in services, and thus, an increase in the need for labor.