

**Rule Summary and Fiscal Analysis (Part A)****Department of Mental Health and Addiction Services**

Agency Name

Division

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**5122-29-33**

Rule Number

**AMENDMENT**

TYPE of rule filing

Rule Title/Tag Line

**Health home service for persons with serious and persistent mental illness.****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? **Yes**

Bill Number: **HB59**General Assembly: **130**Sponsor: **Rep. 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: **5119.36**

5. Statute(s) the rule, as filed, amplifies or implements: **5119.36**

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

The Ohio Department of Mental Health and Addiction Services has reviewed the health home service rule, and determined the need to better define the service in order to assure accountability for the expenditure of public funds that are paid through the community mental health 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:

The rule describes health home service, requirements for certification, components of the service, provider responsibilities and the team composition.

Replace references to "Department of Mental Health" with "Department of Mental Health and Addiction Services"

New (C)(1)(b) to identify obtaining and documenting informed consent specific to health home service

Amend (C)(1)(d) to specify comprehensive assessment is completed within 30 days of enrollment in health home service, and provide examples

Amend (C)(1)(e) to specify integrated care plan is completed within 60 days of enrollment in health home service

Delete (C)(4)(c) to remove requirement

Revise (E)(2)(a) to denote primary care is provided in accordance with medical standards of care and either on-site or through agreement

New (E)(3) to identify provider must demonstrate capacity to serve the primary care needs of the population

Revise (F)(1)(a) & (F)(1)(b), and new (F)(1)(d) & (F)(2)(b) to add additional options for a provider to meet the integrated behavioral health/primary care requirement

New (G)(3)(d) to allow ODMH to request information from provider on ability to meet the requirement in to acquire an electronic health record (EHR) within 12 months.

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:

The rule references national measures from specified entities, which is readily available on the internet.

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:

The material referenced is too voluminous to attach to the rule and the Department does not have the authority to reprint the materials.

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:

The rule was placed in a To Be Refiled status while accompanying Medicaid rules setting rates for this service were finalized. During this period changes outlined below were made through dialogue with stakeholder groups:

#Paragraph (E): A health home provider must demonstrate integration of physical and behavioral health care for a minimum of six months prior to the date of application. Health home providers may co-locate with a primary care provider and the primary care setting must meet the provisions of this rule and be reported to the department.

#Paragraph (G)(3): An electronic health record must be implemented and actively used prior to certification.

#Paragraph (J): The health home provider shall use a team to deliver health home service, which must include at least one nurse care manager.

12. 119.032 Rule Review Date: **7/16/2013**

(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 have no impact on revenues or expenditures.

0.00

Not applicable.

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:

An agency voluntarily chooses to seek OhioMHAS certification in health home service. If a provider seeking certification in health home service needs to add to its existing OhioMHAS certification one or more of the other mental health services which are required by the rule, the provider may incur additional costs in doing so, including staff and administrative costs, the accreditation fee during the agency's next regularly scheduled accreditation survey, etc. The department is unable to estimate these costs which, if incurred, will vary by provider based upon the number of additional services added, whether the provider needs to hire additional staff, whether the additional service is of an amount or type so that it impacts the accreditation fee, etc.

Changes made to the rule after the rule was put in #To Be Refiled# status came about through dialogue with service providers and reflect the intent to narrow the field of potential providers to a smaller group that is better positioned to provide the service in its early trial phases. The requirements for earlier electronic health records, tighter integration of physical and behavioral care, and the addition of a nurse care manager reflect that intent. The actual costs of implementing or expanding an electronic health record will vary by provider for a variety of reasons, including whether the provider currently has any form of an electronic health record, the size of provider and number of staff and records, electronic health record system chosen, etc. Costs of an electronic system include hardware, software, implementation assistance, training, and on-going fees and maintenance. Research shows costs of hardware and software often average from \$20,000 to

\$50,000. Some of the expenditures may be offset over time by the efficiency of an electronic system, and decrease in costs related to a paper system.

In addition to the electronic record system, a health home provider must demonstrate integration of physical and behavioral health care for a minimum of six months prior to the date of application, and have a nurse care manager on the health home staff. The Department estimates the cost associated with addition of the nurse care manager would vary from \$0.00 if the agency already has a nurse on staff that can fill the nurse care manager role up to approximately \$61,750 annually, the mean annual wage in 2013 for a Registered Nurse employed in Ohio (Source: Bureau of Labor Statistics, <http://www.bls.gov/oes/current/oes291141.htm#st>) if a Registered Nurse is newly hired and one hundred per cent of their time was devoted to the health home program. The health care integration expense will vary depending on the level of existing integration, the amount of integration undertaken, and the type of integration the provider elects.

16. Does this rule have a fiscal effect on school districts, counties, townships, or municipal corporations? **No**

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?

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? **Yes**

A mental health agency is required to obtain OhioMHAS certification if it wants to bill the community mental health Medicaid program and/or seek a contract with its local mental health board to receive local/public funding for the service.

Providers seeking other sources of funding for a service, e.g. contracts with insurance companies, private pay, etc. may operate without OhioMHAS certification.

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? **Yes**

Sanction: An agency may be issued a probationary certificate for failure to submit an approved plan of correction, or for non-compliance with any certification standard. There is no other sanction associated with the issuance of a probationary certificate, i.e. there are no fines or other consequences.

Cause of Action: OhioMHAS can initiate a hearing under Chapter 119 of the Revised Code to revoke an agency's certification for failure to submit an approved plan of correction, or for non-compliance with any certification standard.

C.) Does this rule require specific expenditures or the report of information as a condition of compliance? **Yes**

There is a cost associated with obtaining the requisite integrated behavioral health/physical health care accreditation/certification.

Certified providers are required to report data and meet health home performance measurements which consist of mandatory Centers for Medicare and Medicaid Services (CMS) core measures and measures established by the Ohio Department of Mental Health and Addiction Services. CMS requires the collection and reporting of data as a condition of approving health home services as a Medicaid reimbursable service.