

## Rule Summary and Fiscal Analysis

### Part A - General Questions

**Rule Number:** 5160-1-13.1

**Rule Type:** New

**Rule Title/Tagline:** Medicaid recipient liability.

**Agency Name:** Ohio Department of Medicaid

**Division:**

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#### **I. Rule Summary**

**1. Is this a five year rule review?** No

**A. What is the rule's five year review date?**

**2. Is this rule the result of recent legislation?** No

**3. What statute is this rule being promulgated under?** 119.03

**4. What statute(s) grant rule writing authority?** 5164.02

**5. What statute(s) does the rule implement or amplify?** 5164.02

**6. What are the reasons for proposing the rule?**

OAC rule 5160-1-13.1, entitled, "Medicaid Recipient Liability" that is being proposed for adoption to replace the existing rule, entitled, "Consumer Liability" is being proposed for rescission as more than fifty percent required amending to update policy.

**7. Summarize the rule's content, and if this is an amended rule, also summarize the rule's changes.**

Ohio Administrative Code rule 5160-1-13.1, entitled "Medicaid recipient liability", establishes what constitutes payment in full to a provider for Medicaid services

rendered to a Medicaid recipient. This rule also explains under which conditions a provider can or cannot bill the Medicaid recipient for medical services.

The new rule updates all references to a 'consumer' to a 'Medicaid recipient' to reflect current terminology. It cites 42 CFR 447.15 to clarify the federal authority under which Medicaid payment constituting payment in full resides. Patient liability was added to instances where a Medicaid recipient may be asked to share in the cost of care. Based on a Center for Medicare and Medicaid Services (CMS) clarification, the requirement that providers cannot bill for missed appointment fees was added. The first paragraph was also reordered for clarity and the word 'may' was replaced with 'shall' in paragraph (A)(1) since these requirements are federally mandated for Medicaid providers.

A clarification for providers was added regarding an individual being financially responsible for payment of services if the individual is not covered by Medicaid or eligible for the hospital care assurance program (HCAP) on the date of service. The rule further clarifies that where Medicaid eligibility is provided retroactively, the individual may not be held financially responsible if the eligibility span includes the date of service. A provision was added to the rule to prohibit a provider from billing a Medicaid recipient for a prescription for a controlled substance instead of submitting a claim. This provision was added to aid in preventing opioids and other controlled substances from being paid for with cash to bypass the protections built into the Medicaid claim payment system. Instances of incorrect grammar were corrected. The provision when providers may bill a Medicaid recipient was reworded and reorganized for clarity.

- 8. Does the rule incorporate material by reference? Yes**
- 9. If the rule incorporates material by reference and the agency claims the material is exempt pursuant to R.C. 121.71 to 121.76, please explain the basis for the exemption and how an individual can find the referenced material.**

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 RC 121.71 to 121.74 pursuant to RC 121.76(A)(3).

This rule incorporates one or more references to the Ohio Revised Code. This question is not applicable to any incorporation by reference to the Ohio Revised Code because such reference is exempt from compliance with RC 121.71 to 121.74 pursuant to RC121.76(A)(1).

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).

10. If revising or re-filing the rule, please indicate the changes made in the revised or re-filed version of the rule.

*Not Applicable*

## II. Fiscal Analysis

11. As a result of this proposed rule, please estimate the increase / decrease in revenues or expenditures affecting this agency, or the state generally, in the current biennium or future years. If the proposed rule is likely to have a different fiscal effect in future years, please describe the expected difference and operation.

This will have no impact on revenues or expenditures.

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This proposed rule will have no impact on the agency during the current biennium.

12. What are the estimated costs of compliance for all persons and/or organizations directly affected by the rule?

Providers may not bill Medicaid recipients in lieu of ODM unless they notify the recipient in writing prior to the service being rendered that the provider will not bill ODM for the covered service and the recipient signs a written agreement agreeing to pay for the service. The provider must explain to the recipient that the service is a covered service and other Medicaid providers may render the service at no cost to the recipient. These requirements should take no longer than five minutes of staff time. The cost to providers would be provider staff time necessary to revise or create the written form, explain the liability, and obtain the recipient's signature multiplied by the staff's hourly rate.

13. Does the rule increase local government costs? (If yes, you must complete an RSFA Part B). Yes
14. Does the rule regulate environmental protection? (If yes, you must complete an RSFA Part C). No

## III. Common Sense Initiative (CSI) Questions

15. Was this rule filed with the Common Sense Initiative Office? Yes

**16. Does this rule have an adverse impact on business? Yes**

- 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 notify Medicaid recipients before the providers are eligible to bill the recipients in lieu of ODM for Medicaid-covered services. Providers must explain that they will not bill ODM for the covered services and that the Medicaid recipient can get covered services from another provider.

## Rule Summary and Fiscal Analysis

### Part B - Local Governments Questions

**1. Does the rule increase costs for:**

<b>A. Public School Districts</b>	Yes
<b>B. County Government</b>	Yes
<b>C. Township Government</b>	Yes
<b>D. City and Village Governments</b>	Yes

**2. Please estimate the total cost, in dollars, of compliance with the rule for the affected local government(s). If you cannot give a dollar cost, explain how the local government is financially impacted.**

Providers may not bill Medicaid recipients in lieu of ODM unless they notify the recipient in writing prior to the service being rendered that the provider will not bill ODM for the covered service and the recipient signs a written agreement agreeing to pay for the service. The provider must explain to the recipient that the service is a covered service and other Medicaid providers may render the service at no cost to the recipient. These requirements should take no longer than five minutes of staff time. The cost to providers would be provider staff time necessary to revise or create the written form, explain the liability, and obtain the recipient's signature multiplied by the staff's hourly rate.

**3. Is this rule the result of a federal government requirement? Yes**

- A. If yes, does this rule do more than the federal government requires? No**
- B. If yes, what are the costs, in dollars, to the local government for the regulation that exceeds the federal government requirement?**

*Not Applicable*

**4. Please provide an estimated cost of compliance for the proposed rule if it has an impact on the following:**

- A. Personnel Costs**

The staff time necessary to revise or create the written form, explain the liability, and obtain the recipient's signature multiplied by the staff's hourly rate.

**B. New Equipment or Other Capital Costs**

This rule should have no impact related to new equipment or other capital costs.

**C. Operating Costs**

This rule should have no impact on operating costs.

**D. Any Indirect Central Service Costs**

This rule should have no impact on indirect central service costs.

**E. Other Costs**

This rule should create no further other costs.

**5. Please explain how the local government(s) will be able to pay for the increased costs associated with the rule.**

ODM does not anticipate any new costs to local government.

**6. What will be the impact on economic development, if any, as the result of this rule?**

This rule has no discernible impact on economic development.