

**Rule Summary and Fiscal Analysis (Part A)****Ohio Department of Medicaid**

Agency Name

**Tommi Potter**

Contact

Division

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**5160-1-17.4**

Rule Number

**NEW**

TYPE of rule filing

Rule Title/Tag Line

**Revalidation of provider agreements.****RULE SUMMARY**

1. Is the rule being filed for five year review (FYR)? **No**
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: **5164.02, 5164.32**
5. Statute(s) the rule, as filed, amplifies or implements: **5162.03, 5164.02, 5164.32**
6. State the reason(s) for proposing (i.e., why are you filing,) this rule:

This new rule is being proposed for adoption as a result of the five year rule review process. This new rule is being proposed to replace existing rule, 5160-1-17.4, entitled "Conversion to time-limited provider agreements and re-enrollment" which is being rescinded as greater than fifty percent of the rule language is being amended.

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 sets forth substantive and procedural policies for how and when a provider will revalidate its provider agreement with the department and the consequences for failure to revalidate in a timely manner. This rule also addresses how a delay by a governmental entity impacts a revalidation application, the effective date of the new provider agreement, hearing rights and on-site reviews.

This rule provides the process ODM follows when notifying providers that revalidation is required, identifies the methods in which the provider will be contacted and what type of information will be included in the notice. This rule requires the provider to submit all required information and any applicable fees before the revalidation deadline specified in the notice. This rule prohibits providers from revalidating their agreement prior to receiving a revalidation notice and confirms the reporting of changes is the provider's responsibility and does not constitute the initiation of revalidation.

This rule addresses the potential penalties when the provider fails to revalidate or does not revalidate in a timely manner. This rule describes circumstances under which providers may continue operating under an expired provider agreement, and the impact of not timely obtaining renewal of licensure, certification, accreditation or registration due to delay in processing renewals by another government entity.

Related topics such as how agreement effective dates are determined, provider hearing rights afforded, and on-site reviews of providers are addressed in this proposed rule.

This rule states that for providers whose professional license or certification expires less than five years from the effective date of its provider agreement, the provider agreement must be revalidated prior to the expiration of the license or certification. This rule requires provider agreements to be revalidated when the risk level of a provider changes, if a provider's license or certification expires less than five years from the effective date of the provider agreement, or no later than five years from the effective date of the most current provider agreement.

Additionally, this new rule removes outdated language from the previous rule, updates references to the OAC and Ohio Revised Code, updates terminology, clarifies fees and removes a provision regarding denial of claims when a provider fails to revalidate.

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).

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).

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:

*Not Applicable.*

12. Five Year Review (FYR) Date:

(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

No impact on current budget.

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:

This rule requires Ohio Medicaid providers to renew and revalidate its provider agreement every five years or sooner when certain circumstances apply. This rule requires provider agreements to be revalidated when the risk level of a provider changes, if a provider's license or certification expires less than five years from the effective date of the provider agreement, or no later than five years from the effective date of the most current provider agreement.

This rule requires the provider to meet all conditions for participation as an eligible provider and submit all required information and any applicable fees before the revalidation deadline specified in the notice.

According to the Bureau of Labor Statistics, the average salary (with fringe benefits) for a healthcare administration position is \$42,770. Based on this figure, the estimated ten (10) minutes it takes to complete the revalidation application, report information, or provide documentation would cost the provider approximately \$3.43 to revalidate the provider agreement. This cost would be incurred once during a period not to exceed every five (5) years unless the provider has changes to report before the next revalidation period.

The information, documentation, and fees required in the revalidation process will vary based on provider type and whether it is for an individual provider, group practice or a facility-based provider. Individual providers are not subject to an application fee while institutional and group providers are required to pay a \$586 application fee. This fee may be waived if certain exemptions apply and the required documentation of evidence is provided. The reporting of the revalidation information may require the individual or staff to gather necessary documentation to be reported and submitted with the revalidation application.

For providers who fail to timely and properly revalidate, this rule indicates what actions ODM may take including denying the re-enrollment application and terminating the provider agreement. The cost of this sanction will vary by provider. It will depend on the number of Medicaid recipients being served in the facility as the facility will no longer be eligible to receive reimbursement from ODM for services provided to Medicaid recipients.

This rule requires providers to disclose any changes to its existing provider agreement in accordance with Administrative Code rule 5160-1-17.3. The reporting of changes that occur to an existing provider agreement may result in additional administrative costs that will vary based on the provider type and required changes. The costs will be determined by the amount of time required to disclose the changes and the hourly rate of the disclosing employee.

As part of the revalidation process, providers may be subject to an on-site review at the provider's facility, place of business, or both, as ODM deems necessary to ensure program integrity.

The provider may experience additional administrative costs in this case. These costs may include staff time required to prepare for on-site review and staff time lost if the reviewer requires a provider representative to be present or available during the review to answer the reviewer's questions and provide information needed for the review. The exact cost cannot be quantified because it will vary greatly depending on the circumstances of the on-site review but will include the time to gather and provide the information requested, the time to complete the review and the personnel required to assist.

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? **Yes**

A Medicaid provider cannot operate without a provider agreement and the provider agreement must be revalidated every 5 years, or sooner when certain circumstances apply. This rule requires provider agreements to be revalidated when the risk level of a provider changes, if a provider's license or certification expires less than five years from the effective date of the provider agreement, or no later than five years from the effective date of the most current provider agreement.

As part of the revalidation process, providers may be subject to an on-site review at the provider's facility, place of business, or both, as ODM deems necessary to ensure program integrity.

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**

This rule requires providers that want to continue to participate in the Medicaid program to revalidate their provider agreement. If they should fail to comply with the requirements as prescribed in the rule, ODM will deny the application for revalidation and terminate their provider agreement.

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

This rule requires providers to submit information to the department in order to revalidate a Medicaid provider agreement. This rule requires providers to disclose any changes to its existing provider agreement in accordance with Administrative Code rule 5160-1-17.3. In addition, there is a revalidation fee at the time of revalidation. The department began collecting this fee in March, 2013. The fee applies to organizational providers only; it does not apply to individual providers and practitioners or practitioner groups. This fee will not be required if the revalidating organizational provider has paid the fee to either Medicare or another state's Medicaid provider enrollment within the past two years. The fee for 2019 is \$586 per application.

**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 |
| <b>Yes</b>           | <b>Yes</b>   | <b>Yes</b>    | <b>Yes</b>                 |

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.

This rule requires Ohio Medicaid providers to renew and revalidate its provider agreement every five years or sooner when certain circumstances apply. This rule requires provider agreements to be revalidated when the risk level of a provider changes, if a provider's license or certification expires less than five years from the effective date of the provider agreement, or no later than five years from the effective date of the most current provider agreement.

This rule requires the provider to meet all conditions for participation as an eligible provider and submit all required information and any applicable fees before the revalidation deadline specified in the notice.

According to the Bureau of Labor Statistics, the average salary (with fringe benefits) for a healthcare administration position is \$42,770. Based on this figure, the estimated ten (10) minutes it takes to complete the revalidation application, report information, or provide documentation would cost the provider approximately \$3.43 to revalidate the provider agreement. This cost would be incurred once during a period not to exceed every five (5) years unless the provider has changes to report before the next revalidation period.

The information, documentation, and fees required in the revalidation process will vary based on provider type and whether it is for an individual provider, group practice or a facility-based provider. Individual providers are not subject to an application fee while institutional and group providers are required to pay a \$586 application fee. This fee may be waived if certain exemptions apply and the required documentation of evidence is provided. The reporting of the revalidation information may require the individual or staff to gather necessary documentation to be reported and submitted with the revalidation application.

For providers who fail to timely and properly revalidate, this rule indicates what actions ODM may take including denying the revalidation application and terminating the provider agreement. The cost of this sanction will vary by provider. It will depend on the number of Medicaid recipients being served in the facility as the facility will no longer be eligible to receive reimbursement from ODM for services provided to Medicaid recipients.

This rule requires providers to disclose any changes to its existing provider agreement in accordance with Administrative Code rule 5160-1-17.3. The reporting of changes that occur to an existing provider agreement may result in additional administrative costs that will vary based on the provider type and required changes. The costs will be determined by the amount of time required to disclose the changes and the hourly rate of the disclosing employee.

As part of the revalidation process, providers may be subject to an on-site review at the provider's facility, place of business, or both, as ODM deems necessary to ensure program integrity.

The provider may experience additional administrative costs in this case. These costs may include staff time required to prepare for on-site review and staff time lost if the reviewer requires a provider representative to be present or available during the review to answer the reviewer's questions and provide information needed for the review. The exact cost cannot be quantified because it will vary greatly depending on the circumstances of the on-site review but will include the time to gather and provide the information requested, the time to complete the review and the personnel required to assist.

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. This rule requires Ohio Medicaid providers to renew and revalidate its provider agreement every five years or sooner when certain circumstances apply. This rule requires provider agreements to be revalidated when the risk level of a provider changes, if a provider's license or certification expires less than five years from the effective date of the provider agreement, or no later than five years from the effective date of the most current provider agreement.

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This rule requires providers to disclose any changes to its existing provider agreement in accordance with Administrative Code rule 5160-1-17.3. The reporting of changes that occur to an existing provider agreement may result in additional administrative costs that will vary based on the provider type and required changes. The costs will be determined by the amount of time required to disclose the changes and the hourly rate of the disclosing employee.

As part of the revalidation process, providers may be subject to an on-site review at the provider's facility, place of business, or both, as ODM deems necessary to ensure program integrity.

The provider may experience additional administrative costs in this case. These costs may include staff time required to prepare for on-site review and staff time lost if the reviewer requires a provider representative to be present or available during the review to answer the reviewer's questions and provide information needed for the review. The exact cost cannot be quantified because it will vary greatly depending on the circumstances of the on-site review but will include the time to gather and provide the information requested, the time to complete the review and the personnel required to assist.

(a) Personnel Costs

This rule requires Ohio Medicaid providers to renew and revalidate its provider agreement every five years or sooner when certain circumstances apply. This rule requires provider agreements to be revalidated when the risk level of a provider changes, if a provider's license or certification expires less than five years from the effective date of the provider agreement, or no later than five years from the effective date of the most current provider agreement.

This rule requires the provider to meet all conditions for participation as an eligible provider and submit all required information and any applicable fees before the revalidation deadline specified in the notice.

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The information and documentation required in the revalidation process will vary based on provider type and whether it is for an individual provider, group practice or a facility-based provider. The reporting of the revalidation information may require the individual or staff to gather necessary documentation to be reported and submitted with the revalidation application.

This rule requires providers to disclose any changes to its existing provider agreement in accordance with Administrative Code rule 5160-1-17.3. The reporting of changes that occur to an existing provider agreement may result in additional administrative costs that will vary based on the provider type and required changes. The costs will be determined by the amount of time required to disclose the changes and the hourly rate of the disclosing employee.

**(b) New Equipment or Other Capital Costs**

No new equipment or other capital costs are required.

**(c) Operating Costs**

Individual providers are not subject to an application fee while institutional and group providers are required to pay a \$586 application fee. This fee may be waived if certain exemptions apply and the required documentation of evidence is provided.

As part of the revalidation process, providers may be subject to an on-site review at the provider's facility, place of business, or both, as ODM deems necessary to

ensure program integrity. The provider may experience additional administrative costs in this case. These costs may include staff time required to prepare for on-site review and staff time lost if the reviewer requires a provider representative to be present or available during the review to answer the reviewer's questions and provide information needed for the review. The exact cost cannot be quantified because it will vary greatly depending on the circumstances of the on-site review but will include the time to gather and provide the information requested, the time to complete the review and the personnel required to assist.

(d) Any Indirect Central Service Costs

No indirect central service costs are required.

(e) Other Costs

For providers who fail to timely and properly revalidate, this rule indicates what actions ODM may take including denying the revalidation application and terminating the provider agreement. The cost of this sanction will vary by provider. It will depend on the number of Medicaid recipients being served in the facility as the facility will no longer be eligible to receive reimbursement from ODM for services provided to Medicaid recipients.

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 requirements in the new rule were present in the previous rule that is being proposed for rescission. This new rule does not impose new requirements.

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

This rule is expected to continue having a positive impact on economic development because it allows organizational providers such as local governments, school districts, and local health department to become an Ohio Medicaid provider to be reimbursed for services provided.