

5160-1-17.8

Provider screening and application fee.

(A) In accordance with 42 C.F.R. 455.410 (as in effect ~~July 1, 2018~~October 1, 2019) and rule 5160-1-17 of the Administrative Code in order to become an eligible provider, a provider must meet the screening requirements described in this rule and in section 5164.34 of the Revised Code and pay an applicable application fee if required in the appendix to this rule. Provider screening and application fees are required at the time of enrollment and revalidation as defined in rule 5160-1-17.4 of the Administrative Code.

(1) Exemptions.

- (a) If a provider is required to participate in the medicare program as a condition of enrollment in medicaid or elects to participate in the medicare program and has met the provider screening requirements and paid an applicable application fee to the centers for medicare and medicaid services (CMS) or its designee, the provider is exempt from the application fee requirements set forth in this rule.
- (b) If a provider has met the provider screening requirements and paid an applicable application fee to another state medicaid agency or its designee, the provider is exempt from the application fee requirements set forth in this rule.
- (c) A provider must provide documentation to support it meets the criteria for an exemption described in paragraphs (A)(1)(a) and (A)(1)(b) of this rule.
- (d) When employed by or independently contracted with an entity certified by the Ohio department of mental health and addiction services, the following are exempt from the provisions of paragraphs (E)(2) to (E)(4) of this rule when providing services for the entity.
 - (i) Certified peer recovery supporters as defined in rule 5122-29-15.1 of the Administrative Code;
 - (ii) Practitioners licensed or certified under Chapter 4757. of the Revised Code;
 - (iii) Practitioners licensed or certified under Chapter 4758. of the Revised Code.

(2) The appendix to this rule sets forth:

- (a) The screening risk level assigned to each provider type in accordance with paragraph (B) of this rule; and

- (b) The provider types that must pay an application fee in accordance with paragraph (G) of this rule.
- (B) The appropriate screening based on screening risk level must be given to all service locations of an enrolled provider. Providers must disclose all service locations at time of enrollment and notify the department of changes or additional service locations within thirty days of the change in order to be reimbursed for services delivered at that location.
- (C) In accordance with 42 C.F.R. 455.452 (as in effect ~~July 1, 2018~~October 1, 2019), the Ohio department of medicaid (ODM) reserves the right to conduct additional screenings and background checks as determined necessary by ODM or its designee.
- (D) Screening requirements differ by risk level. If more than one risk level could apply to a provider, the highest level of screening is required.
- (1) Limited.
 - (a) Providers are subject to verification that they meet any applicable medicaid requirements as stated in agency 5160 of the Administrative Code for their provider type; and
 - (b) Providers are subject to license verifications, including state licensure verification in states other than Ohio; and
 - (c) Providers are subject to database checks on a pre- and post-enrollment basis to ensure that providers continue to meet the enrollment criteria for their provider type.
 - (i) Database checks must confirm the identity and exclusion status of providers and any person with a five per cent or greater ownership or control interest; or any person who is an agent or an individual (including a general manager, business manager, administrator, director, or consultant) who directly or indirectly manages, advises, or supervises any element of the practices, finances, or operations of the provider entity.
 - (ii) Databases to be checked include, but are not limited to, the social security administration's death master file, the national plan and provider enumeration systems (NPPES), the list of excluded individuals/entities maintained by the office of the inspector general, health and human services, the medicare exclusion database (MED), or the system for awards management (SAM), the list of providers terminated by another state's medicaid program,

the nurse aid registry maintained by the Ohio department of health and the abuser registry maintained by the Ohio department of developmental disabilities.

(iii) A provider is disqualified from receiving a medicaid provider agreement during the time the provider is on one or more of the following registries or databases:

(a) the social security administration's death master file;

(b) the list of excluded individuals or entities maintained by the office of the inspector general, health and human services;

(c) the medicare exclusion database (MED);

(d) the list of providers terminated by another state's medicaid program;

(e) the abuser registry maintained by the Ohio department of developmental disabilities;

(f) the system for awards management (SAM) list of individuals or entities with an exclusion;

(g) the nurse aid registry abuse listing maintained by the Ohio department of health.

(2) Moderate.

(a) Providers are subject to the requirements in paragraph (D)(1) of this rule; and

(b) Providers are subject to on-site visits.

(i) Pre- and post-enrollment site visits by ODM or its designee will verify that information provided to ODM or its designee is accurate and to determine compliance with medicaid enrollment requirements.

(ii) Once enrolled, providers must allow CMS or its agents or contractors, or ODM or its agents or contractors to conduct unannounced on-site inspections of any and all provider locations.

(3) High.

- (a) Providers are subject to the requirements in paragraphs (D)(1) and (D) (2) (b) of this rule; and
 - (b) Each person with a five per cent or greater ownership or control interest with the provider is subject to a criminal background check and is required to submit to a fingerprint-based background check within thirty days of submission of the application in a form and manner determined by ODM, or its designee.
- (E) The following sets forth the exclusionary offenses and exclusion time periods from participation in the medicaid program:
- (1) Tier I. Permanent exclusion.
 - (a) Individuals who have been convicted of or pleaded guilty to, an offense in any of the following sections of the Revised Code are permanently excluded from participation in the medicaid program:
 - (i) 2903.01 (aggravated murder);
 - (ii) 2903.02 (murder);
 - (iii) 2903.03 (voluntary manslaughter);
 - (iv) 2903.11 (felonious assault);
 - (v) 2903.15 (permitting child abuse);
 - (vi) 2903.16 (failing to provide for a functionally-impaired person);
 - (vii) 2903.34 (patient abuse or neglect);
 - (viii) 2903.341 (patient endangerment);
 - (ix) 2905.01 (kidnapping);
 - (x) 2905.02 (abduction);
 - (xi) 2905.32 (human trafficking);
 - (xii) 2905.33 (unlawful conduct with respect to documents);
 - (xiii) 2907.02 (rape);
 - (xiv) 2907.03 (sexual battery);

- (xv) 2907.04 (unlawful sexual conduct with a minor, formerly corruption of a minor);
- (xvi) 2907.05 (gross sexual imposition);
- (xvii) 2907.06 (sexual imposition);
- (xviii) 2907.07 (importuning);
- (xix) 2907.08 (voyeurism);
- (xx) 2907.12 (felonious sexual penetration, as that offense existed prior to September 3, 1996);
- (xxi) 2907.31 (disseminating matter harmful to juveniles);
- (xxii) 2907.32 (pandering obscenity);
- (xxiii) 2907.321 (pandering obscenity involving a minor);
- (xxiv) 2907.322 (pandering sexually-oriented matter involving a minor);
- (xxv) 2907.323 (illegal use of a minor in nudity-oriented material or performance);
- (xxvi) 2909.22 (soliciting or providing support for act of terrorism);
- (xxvii) 2909.23 (making terroristic threats);
- (xxviii) 2909.24 (terrorism);
- (xxix) 2913.40 (medicaid fraud);
- (xxx) If related to another offense under paragraph (E)(1)(a) of this rule, 2923.01 (conspiracy), 2923.02 (attempt), or 2923.03 (complicity);
or

- (b) A conviction related to fraud, theft, embezzlement, breach of fiduciary responsibility, or other financial misconduct involving a federal or state-funded program, excluding the disqualifying offenses set forth in section 2913.46 of the Revised Code (illegal use of supplemental nutrition assistance program (SNAP) or women, infants, and children (WIC) program benefits) and paragraph (E)(2)(a)(xiii) of this rule; or

- (c) A violation of an existing or former municipal ordinance or law of this state, any other state, or the United States that is substantially equivalent to any of the offenses or violations described in paragraph (E)(1)(a) or (E)(1)(b) of this rule.

(2) Tier II. Ten-year exclusionary period.

- (a) Individuals who have been convicted of or pleaded guilty to, an offense in any of the following sections of the Revised Code are excluded from participation in the medicaid program for a period of ten years from the date the individual was fully discharged from all imprisonment, probation or parole:
 - (i) 2903.04 (involuntary manslaughter);
 - (ii) 2903.041 (reckless homicide);
 - (iii) 2905.04 (child stealing, as that offense existed prior to July 1, 1996);
 - (iv) 2905.05 (child enticement);
 - (v) 2905.11 (extortion);
 - (vi) 2907.21 (compelling prostitution);
 - (vii) 2907.22 (promoting prostitution);
 - (viii) 2907.23 (enticement or solicitation to patronize a prostitute; procurement of a prostitute for another);
 - (ix) 2909.02 (aggravated arson);
 - (x) 2909.03 (arson);
 - (xi) 2911.01 (aggravated robbery);
 - (xii) 2911.11 (aggravated burglary);
 - (xiii) 2913.46 (illegal use of SNAP or WIC program benefits);
 - (xiv) 2913.48 (worker's compensation fraud);
 - (xv) 2913.49 (identity fraud);
 - (xvi) 2917.02 (aggravated riot);

- (xvii) 2923.12 (carrying concealed weapons);
- (xviii) 2923.122 (illegal conveyance or possession of deadly weapon or dangerous ordnance in a school safety zone, illegal possession of an object indistinguishable from a firearm in a school safety zone);
- (xix) 2923.123 (illegal conveyance, possession, or control of deadly weapon or ordnance into courthouse);
- (xx) 2923.13 (having weapons while under a disability);
- (xxi) 2923.161 (improperly discharging a firearm at or into a habitation or school);
- (xxii) 2923.162 (discharge of firearm on or near prohibited premises);
- (xxiii) 2923.21 (improperly furnishing firearms to minor);
- (xxiv) 2923.32 (engaging in a pattern of corrupt activity);
- (xxv) 2923.42 (participating in a criminal gang);
- (xxvi) 2925.02 (corrupting another with drugs);
- (xxvii) 2925.03 (trafficking in drugs);
- (xxviii) 2925.04 (illegal manufacture of drugs or cultivation of marijuana);
- (xxix) 2925.041 (illegal assembly or possession of chemicals for the manufacture of drugs);
- (xxx) 3716.11 (placing harmful or hazardous objects in food or confection); or
- (xxxi) If related to an offense under paragraph (E)(2)(a) of this rule, 2923.01 (conspiracy), 2923.02 (attempt), or 2923.03 (complicity);
or

(b) A violation of an existing or former municipal ordinance or law of this state, any other state or the United States that is substantially equivalent to any of the offenses or violations described under paragraph (E)(2)(a) of this rule.

- (c) If the individual has been convicted of multiple disqualifying offenses, including an offense listed in paragraph (E)(2)(a) or (E)(2)(b) of this rule, and another offense or offenses listed in paragraph (E)(2)(a), (E)(3)(a), (E)(3)(b), (E)(4)(a), or (E)(4)(b) of this rule, the individual is subject to a fifteen-year exclusionary period beginning on the date the individual was fully discharged from all imprisonment, probation or parole for the most recent offense.

(3) Tier III. Seven-year exclusionary period.

- (a) Individuals who have been convicted of or pleaded guilty to, an offense in any of the following sections of the Revised Code are excluded from participation in the medicaid program for a period of seven years from the date the individual was fully discharged from all imprisonment, probation or parole:

- (i) 959.13 (cruelty to animals);
- (ii) 959.131 (prohibitions concerning companion animals);
- (iii) 2903.12 (aggravated assault);
- (iv) 2903.21 (aggravated menacing);
- (v) 2903.211 (menacing by stalking);
- (vi) 2905.12 (coercion);
- (vii) 2909.04 (disrupting public services);
- (viii) 2911.02 (robbery);
- (ix) 2911.12 (burglary);
- (x) 2913.47 (insurance fraud);
- (xi) 2917.01 (inciting to violence);
- (xii) 2917.03 (riot);
- (xiii) 2917.31 (inducing panic);
- (xiv) 2919.22 (endangering children);
- (xv) 2919.25 (domestic violence);

- (xvi) 2921.03 (intimidation);
- (xvii) 2921.11 (perjury);
- (xviii) 2921.13 (falsification, falsification in a theft offense, falsification to purchase a firearm, or falsification to obtain a concealed handgun license);
- (xix) 2921.34 (escape);
- (xx) 2921.35 (aiding escape or resistance to lawful authority);
- (xxi) 2921.36 (illegal conveyance of weapons, drugs or other prohibited items onto the grounds of a detention facility or institution);
- (xxii) 2925.05 (funding drug trafficking);
- (xxiii) 2925.06 (illegal administration or distribution of anabolic steroids);
- (xxiv) 2925.24 (tampering with drugs);
- (xxv) 2927.12 (ethnic intimidation); or
- (xxvi) If related to an offense under paragraph (E)(3)(a) of this rule, 2923.01 (conspiracy), 2923.02 (attempt), or 2923.03 (complicity);
or

(b) A violation of an existing or former municipal ordinance or law of this state, any other state or the United States that is substantially equivalent to any of the offenses or violations described under paragraph (E)(3)(a) of this rule.

(c) If an individual has been convicted of multiple disqualifying offenses, including an offense listed in paragraph (E)(3)(a) or (E)(3)(b) of this rule, and another offense or offenses listed in paragraph (E)(3)(a), (E)(3)(b), (E)(4)(a), or (E)(4)(b) of this rule, the individual is subject to a ten-year exclusionary period beginning on the date the individual was fully discharged from all imprisonment, probation or parole for the most recent offense.

(4) Tier IV. Five-year exclusionary period.

- (a) Individuals who have been convicted of or pleaded guilty to, an offense in any of the following sections of the Revised Code are excluded from participation in the medicaid program for a period of five years from the date the individual was fully discharged from all imprisonment, probation or parole:
- (i) 2903.13 (assault);
 - (ii) 2903.22 (menacing);
 - (iii) 2907.09 (public indecency);
 - (iv) 2907.24 (soliciting);
 - (v) 2907.25 (prostitution);
 - (vi) 2907.33 (deception to obtain matter harmful to juveniles);
 - (vii) 2911.13 (breaking and entering);
 - (viii) 2913.02 (theft);
 - (ix) 2913.03 (unauthorized use of a vehicle);
 - (x) 2913.04 (unauthorized use of computer, cable or telecommunication property);
 - (xi) 2913.05 (telecommunication fraud);
 - (xii) 2913.11 (passing bad checks);
 - (xiii) 2913.21 (misuse of credit cards);
 - (xiv) 2913.31 (forgery - forging identification cards or selling or distributing forged identification cards);
 - (xv) 2913.32 (criminal simulation);
 - (xvi) 2913.41 (defrauding a rental agency or hostelry);
 - (xvii) 2913.42 (tampering with records);
 - (xviii) 2913.43 (securing writings by deception);
 - (xix) 2913.44 (personating an officer);

- (xx) 2913.441 (unlawful display of law enforcement emblem);
- (xxi) 2913.45 (defrauding creditors);
- (xxii) 2913.51 (receiving stolen property);
- (xxiii) 2919.12 (unlawful abortion);
- (xxiv) 2919.121 (unlawful abortion upon minor);
- (xxv) 2919.123 (unlawful distribution of an abortion-inducing drug);
- (xxvi) 2919.23 (interference with custody);
- (xxvii) 2919.24 (contributing to the unruliness or delinquency of a child);
- (xxviii) 2921.12 (tampering with evidence);
- (xxix) 2921.21 (compounding a crime);
- (xxx) 2921.24 (disclosure of confidential information);
- (xxxi) 2921.32 (obstructing justice);
- (xxxii) 2921.321 (assaulting or harassing a police dog, horse, or service animal);
- (xxxiii) 2921.51 (impersonation of peace officer);
- (xxxiv) 2925.09 (illegal administration, dispensing, distribution, manufacture, possession, selling, or using of any dangerous veterinary drug);
- (xxxv) 2925.11 (drug possession, other than a minor drug possession offense);
- (xxxvi) 2925.13 (permitting drug abuse);
- (xxxvii) 2925.22 (deception to obtain a dangerous drug);
- (xxxviii) 2925.23 (illegal processing of drug documents);
- (xxxix) 2925.36 (illegal dispensing of drug samples);
- (xl) 2925.55 (unlawful purchase of pseudoephedrine product);

(xli) 2925.56 (unlawful sale of pseudoephedrine product);

(xlii) If related to an offense under paragraph (E)(4)(a) of this rule, 2923.01 (conspiracy), 2923.02 (attempt), or 2923.03 (complicity);
or

(b) A violation of an existing or former municipal ordinance or law of this state, any other state or the United States that is substantially equivalent to any of the offenses or violations described under paragraph (E)(4)(a) of this rule.

(c) If an individual has been convicted of multiple disqualifying offenses listed in paragraph (E)(4)(a) or (E)(4)(b) of this rule, the individual is subject to a seven-year exclusionary period beginning on the date the individual was fully discharged from all imprisonment, probation or parole for the most recent offense.

(5) Tier V. No exclusionary period.

(a) Individuals who have been convicted of or pleaded guilty to, an offense in any of the following sections of the Revised Code are not subject to an exclusionary period and may participate in the medicaid program:

(i) 2919.21 (non-support/contributing to non-support of dependents);

(ii) 2925.11 (drug possession that is a minor drug possession offense); or

(iii) 2925.14 (drug paraphernalia); or

(iv) 2925.141 (illegal use or possession of marijuana drug paraphernalia);
or

(b) A violation of an existing or former municipal ordinance or law of this state, any other state or the United States that is substantially equivalent to any of the offenses or violations described under paragraph (E)(5)(a) of this rule.

(F) Pardons and certificates. A conviction of, or a plea of guilty to, an exclusionary offense as set forth in paragraph (E) of this rule shall not prevent a provider from enrollment if any of the following circumstances apply:

(1) The provider has been granted an unconditional pardon for the offense pursuant to Chapter 2967. of the Revised Code;

- (2) The provider has been granted an unconditional pardon for the offense pursuant to an existing or former law of the state of Ohio, any other state, or the United States, if the law is substantially equivalent to Chapter 2967. of the Revised Code;
- (3) The provider has been granted a conditional pardon for the offense pursuant to Chapter 2967. of the Revised Code, and the condition(s) under which the pardon was granted have been satisfied;
- (4) The provider's conviction or guilty plea has been set aside pursuant to law; or
- (5) A certificate of qualification for employment has been issued by an Ohio court of common pleas pursuant to section 2953.25 of the Revised Code, or an equivalent certification has been issued by an out of state or federal jurisdiction.
- (6) Provider applications that include a certificate of qualification for employment or an equivalent certification associated with a permanent exclusion offense as stated in paragraph (E)(1) of this rule, will be reviewed by ODM and a decision will be rendered by ODM on a case-by-case basis as to whether a provider agreement will be approved or not in accordance with section 2953.25 of the Revised Code.
- ~~(6) A provider who has been convicted of, or pleaded guilty to, an offense listed in paragraph (E) of this rule and who has applied to obtain a pardon or certificate as described in paragraphs (F)(1) to (F)(5) of this rule shall not be excluded from participation in the medicaid program until the earlier of the date of the pardon or certificate is denied, or October 1, 2019.~~

(G) Application fee.

- (1) Provider types identified as subject to an application fee in the appendix to this rule must submit the fee in a form and manner determined by ODM at the time of application for enrollment or revalidation as a medicaid provider. If proof of fee payment is not submitted with the provider's application, the application will be rejected as incomplete.
- (2) Individual physicians and non-physician practitioners are exempt from paying an application fee in accordance with 42 C.F.R. 455.460, ~~(February 2, 2019)~~October 1, 2019.
- (3) ODM may waive an application fee if:
 - (a) ODM determines that imposing the fee would have an adverse impact on beneficiary access to services; and

- (b) ODM has requested and CMS has approved a waiver of the fee.
- (4) If ODM receives approval from CMS to waive a medicaid application fee, providers are still subject to the screening requirements set forth in this rule.
- (5) The application fee is equal to the amount established by CMS and includes an annual adjustment for inflation in accordance with 42 U.S.C. 1395cc(j)(2)(C) (i) (~~December, 2016~~January 1, 2020).
- (6) The application fee will not be refunded if:
 - (a) Enrollment is denied as a result of failure to meet the provider screening requirements described in this rule;
 - (b) If enrollment is denied based on the results of the provider screening.; or
 - (c) If ODM or its designee identifies other circumstances under which refunding the application fee is not warranted.
- (H) If enrollment is denied as a result of failure to meet the provider screening requirements or failure to pay any associated application fee, the provider may request a hearing pursuant to Chapter 119. of the Revised Code.

Effective: 1/31/2020
Five Year Review (FYR) Dates: 11/15/2019 and 01/31/2025

CERTIFIED ELECTRONICALLY

Certification

01/21/2020

Date

Promulgated Under: 119.03
Statutory Authority: 5164.02, 5164.31
Rule Amplifies: 5164.02, 5164.31, 5164.34
Prior Effective Dates: 03/31/2012, 06/29/2018 (Emer.), 10/25/2018