

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

Agency Name

Division

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**5160-13-01**

Rule Number

**NEW**

TYPE of rule filing

Rule Title/Tag Line

**Service-based ambulatory health care clinics: general provisions.****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**5. Statute(s) the rule, as filed, amplifies or implements: **5164.02**

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

The rules in OAC Chapter 5160-13 are up for five-year rule review. OAC rules 5160-13-01, 5160-13-01.1, 5160-13-01.3, 5160-13-01.4, 5160-13-01.5, 5160-13-01.6, 5160-13-01.7, and 5160-13-01.8 are being rescinded and replaced with one new rule (5160-13-01).

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:

This rule sets forth definitions pertaining to service-based ambulatory health care clinics (AHCCs) that are paid by Medicaid on a fee-for-service basis and lists the types of providers that may enroll as AHCCs. It also describes conditions for these providers to participate in the Medicaid program.

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 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 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 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 R.C. 121.71 to 121.74 pursuant to 121.76(A)(1).

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).

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:

No change has been made to the rule. The date of the public hearing has been corrected on the notice.

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

This will have no impact on the budget of the agency.

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:

The costs are estimated as follows:

A) Primary care clinics are required to: (1) be either certified or accredited by the Joint Commission, Accreditation Association for Ambulatory Health Care (AAAHC), Healthcare Facilities Accreditation Program of the American Osteopathic Association, or the Community Health Accreditation Program (CHAP), or (2) receive state or federal grant funds for the provision of health services. Accreditation fees range from about \$7,200 a year for small businesses to more than \$40,000 a year for large organizations. The cost to apply for a grant is existing staff time. According to Labor Market Information (LMI) data published by the Ohio Department of Job and Family Services in 2016, the median salary statewide hourly wage for professionals performing services related to accreditation is \$24.76 (program director) and adding 30 per cent for fringe benefits brings the figure to \$32.19. Therefore, the estimated cost associated with applying for a grant is about \$1,300.

B) Any organization applying to be a public health department clinic provider with Medicaid must have legal status as a county, city, or combined health district; and meet the standards for boards of health and local health departments in accordance with Chapter 3709 and Section 3701.342 of the Revised Code. ODM reached out to the Ohio Department of Health regarding the cost of their requirement, and they said the cost of this requirement has never been quantified. There is no expected cost of compliance as a result of this rule on existing public health department clinics as they already meet this requirement prior to enrolling with Medicaid.

(C) Outpatient rehabilitation clinics are required by Medicare to be certified by Medicare as either an outpatient rehabilitation agency or a comprehensive outpatient rehabilitation facility (CORF). Outpatient rehabilitation agencies and CORFs are not licensed in Ohio. Federal standards for Medicare certification are found at 42 CFR Part 485, Subpart B, 42 CFR Part 485.703, and 42 CFR Part 485.51. As long as outpatient rehabilitation clinics follow federal standards for Medicare certification, which they must do regardless of whether they enroll in Medicaid, there is no additional cost of compliance in order to become a Medicaid provider.

(D) Family planning clinics are required to comply with federal guidelines set forth in 42 U.S.C. 300 and receive funding for pregnancy prevention services through Title X of the Public Health Services Act. There is no additional cost of compliance as a result of this rule.

(E) Professional optometry school clinics are required to be associated with an accredited optometry school. Professional optometry schools are accredited by organizations such as the Accreditation Council on Optometry Education (ACOE) of the American Optometric Association (AOA). According to AOA's website, application and annual fees are: (1) Professional Optometric Degree Programs - \$30,629, (2) Optometric Residency Programs - \$2,226, and (3) Optometric Technician Programs - \$2,226. This requirement is consistent with existing professional standards, not an additional Medicaid requirement or cost.

(F) Professional dental school clinics are required to be associated with a professional dental school. Professional dental schools are accredited by organization such as the commission on dental accreditation (CODA) of the American dental association (ADA). According to the ADA's website, application fees for new professional dental schools require a one-time payment of \$4,000. Annual fees for existing professional dental schools are currently \$6,740. This requirement is consistent with existing professional standards, not an additional Medicaid requirement or cost.

(G) Professionals working at speech-language/audiology clinics must hold a certificate from the American Speech-Language Hearing Association (ASHA). The cost of a certificate issued by ASHA ranges from \$256-\$511 (dues and fees are paid annually). The costs, however, are normally assumed by the practitioner working at the clinic and not the clinic itself.

(H) End-stage renal disease (ESRD) dialysis clinics must: (1) be certified by Medicare as a dialysis facility; (2) be licensed by the Ohio Department of Health in accordance with Chapter 3701-83, and (3) if a non-Ohio provider, be licensed by their respective state's authority. All freestanding dialysis centers are required to be licensed by the Ohio Department of Health under section 3702.30 of the Ohio Revised Code. As long as dialysis clinics follow Ohio standards for licensure and federal standards for Medicare certification, which they must do regardless if they enroll in Medicaid, there is no additional cost of compliance due to this rule.

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? **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**

An end-stage renal disease (ESRD) dialysis clinic must be certified by Medicare as a dialysis facility and licensed by the Ohio department of health or, if it is located outside of Ohio, be licensed by its respective state's authority.

A family planning clinic must comply with federal guidelines set forth in 42 U.S.C. 300 and receive funding for pregnancy prevention services through Title X of the Public Health Services Act.

An outpatient rehabilitation clinic must be a Medicare-certified rehabilitation agency or a Medicare certified comprehensive outpatient rehabilitation facility.

A primary care clinic must receive state or federal grant funds for the provision of health services or be certified or accredited by one of the following entities: Joint Commission, Accreditation Association for Ambulatory Health Care, American Osteopathic Association; or Community Health Accreditation Program.

A professional dental school clinic must be associated with an accredited dental school and a professional optometry school clinic must be associated with an accredited optometry school.

A public health department clinic must have legal status as a county, city, or combined health district and meet the standards set forth in section 3701.342 of the Revised Code.

A speech-language-audiology clinic must hold a certificate from the American Speech-Language-Hearing Association.

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? **No**