

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

Agency Name

Division

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5160-13-02

Rule Number

NEW

TYPE of rule filing

Rule Title/Tag Line

Service-based ambulatory health care clinics: end-stage renal disease (ESRD) dialysis clinics.**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: **5162.03, 5164.02, 5164.70**

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 OAC rule 5160-13-01.9 and its appendix is being rescinded and replaced with a new rule numbered 5160-13-02.

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 coverage and limitations pertaining to AHCC end-stage renal disease (ESRD) dialysis clinics. It also sets forth the payment methodology used by Medicaid for covered dialysis services rendered by an ESRD dialysis clinic.

The intent of the proposed rule remains the same as the rule it is replacing.

Differences between this rule and the rule it is replacing include: (1) definitions determined unnecessary were deleted, (2) provider requirements were moved to 5160-13-01 with the other AHCC requirements, (3) the payment methodology is defined in this rule, (4) the language around payment was clarified and streamlined, and (5) the appendix was determined unnecessary and was deleted.

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 a reference to another rule of the Ohio Administrative Code (3701-83-23). 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).

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 increase expenditures.

\$8,000.00

Under new rule 5160-13-02, payment amounts are expressed as a formula: the product of the Medicare payment times a percentage that will be stated in the new rule. Providers will see a slight increase in payment for some services, but the intention of this new payment methodology is to be transparent rather than change payment amounts for services. The estimated fiscal impact for the remainder of the current biennium is approximately \$8,000.

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 estimated cost of compliance with the rule lies in the time needed by a provider to maintain documentation. Documentation is a standard part of every practitioner's routine, and these rule provisions do not increase the burden of documentation; they merely identify the areas of record-keeping in which Medicaid has a particular interest. The activities (e.g., writing a sentence or two, photocopying, filing) associated with these provisions take no more than a few minutes each.

The median statewide hourly wage associated with medical record documentation, according to Labor Market Information (LMI) data published by the Ohio Department of Job and Family Services, is \$46.15; adding 30% for fringe benefits brings the figure to \$60.00. So the estimated cost of documentation is approximately \$1.00 per minute.

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? **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**

Frequency limits for a service may only be exceeded if the medical necessity of the additional service is documented in the medical record by the practitioner who is primarily responsible for the dialysis services.