

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

Agency Name

**Tommi Potter**

Division

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**5160-15-14**

Rule Number

**NEW**

TYPE of rule filing

Rule Title/Tag Line

**Transportation: non-emergency services through a CDJFS: program integrity 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:

To implement a corrective action plan placed on the State of Ohio Department of Medicaid by the Centers for Medicare and Medicaid Services, relating to the administration of the Medicaid program.

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 requirements for a county department of job and family services (CDJFS) when it establishes or renews contracts with transportation vendors that provide direct service to Medicaid-eligible individuals. Under this rule, owners and managers of private transportation vendors (PTVs) will be required to disclose

specified information and pass criminal background checks. This rule formalizes and standardizes what many counties have already put into practice.

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 121.76(A)(3).

This rule incorporates one or more dated references to the Code of Federal Regulations (CFR). The 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 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 RC 121.76(A)(1).

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. On the public hearing notice, the address where the hearing will be held has been corrected.

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 rule will have no impact on the agency 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:

Completing a background check is considered to be part of the cost of doing business. However, for a PTV that was not previously conducting background checks, the cost for the Bureau of Criminal Investigation (BCI) to complete the background check is \$46.00 per individual. Due to the disclosure requirement, an indirect, nominal monetary expenditure is expected with the enactment of this rule. Providing the disclosure information would cost a private transportation vendor (PTV) roughly \$.86 to \$1.71 for clerical staff to complete. This is based on a completion time of approximately five to ten minutes at an average pay rate of \$10.41 an hour based on information found on the Ohio Labor Market Information website.

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? **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**

This rule requires the report of specific information. It also requires criminal background checks for employees of private transportation vendors that contract with a CDJFS and provide direct services to Medicaid recipients.

**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>No</b>	<b>Yes</b>	<b>No</b>	<b>No</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.

A cost of \$47.20 will be incurred by a CDJFS for each individual background check- \$46.00 for the Bureau of Criminal Investigation (BCI) to complete the background check, plus approximately \$1.20 for the time it would take a county clerical worker to review two excluded provider lists; the "System for Award Management (SAM)" and the "List of Excluded Individuals/Entities (LEIE)."

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.

The cost of a background check, per individual, is expected to cost a county a maximum of \$47.20 per each background check. This sum consists of \$46.00 for the Bureau of Criminal Investigation (BCI) to complete the background check, plus approximately \$1.20, for the time it would take a county clerical worker to review two excluded provider lists; the "System for Award Management (SAM)" and the "List of Excluded Individuals/Entities (LEIE)."

(a) Personnel Costs

No new costs.

(b) New Equipment or Other Capital Costs

No new costs.

(c) Operating Costs

No new costs.

(d) Any Indirect Central Service Costs

No new costs.

(e) Other Costs

A cost of \$46.00 will be incurred for BCI to complete each individual background check. As many counties currently conduct background checks, this will not be a new cost to them.

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.

Since many counties currently conduct background checks, counties should be able to pay for the new requirements without significant difficulties.

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

No impact on economic development is expected.