

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

Agency Name

Tommi Potter

Division

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5160-26-03.1

Rule Number

AMENDMENT

TYPE of rule filing

Rule Title/Tag Line

Managed health care programs: primary care and utilization management.**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? **Yes**
Bill Number: **129** General Assembly: **131** Sponsor: **Senator Gardner**
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: **5167.02**
5. Statute(s) the rule, as filed, amplifies or implements: **5160.34, 5167.41, 5167.13, 5167.10, 5167.03, 5167.02**
6. State the reason(s) for proposing (i.e., why are you filing,) this rule:

This rule is being amended to clarify policy relating to the administration of the Medicaid Managed Care 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 the Ohio Medicaid Managed Care plan primary care and utilization management standards. Changes to the rule include: Updated the prior authorization timeframes to comply with ORC 5160.34 (SB 129) requirements; in paragraph (B)(3) (h), removed language related to pharmacy prior authorization decision timeframes;

removed duplicative language in paragraph (B)(5) related to the Coordinated Services Program; and other grammatical/technical edits.

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 (OAC). 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). OAC Medicaid rules may be found online at: <http://codes.ohio.gov/oac/5160>.

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). The Ohio Revised Code references may be found online at: <http://codes.ohio.gov/orc/51>.

This rule incorporates one or more dated references to the United States Code. This question is not applicable to those references in this rule because such dated references are exempt from compliance with RC 121.71 to 121.74 pursuant to RC 121.75(A). The USC can be found online at: <https://www.gpo.gov/fdsys/browse/collectionUScode.action?collectionCode=USCODE>

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: 7/1/2022

(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:

No new costs of compliance. Managed care plans (MCPs) are paid per member per month and receive funds to cover required services. ODM must pay MCPs rates that are actuarially sound, as determined by an outside actuary in accordance with 42 CFR 438.4 and CMS's 2016 Managed Care Rate Setting Consultation Guide. All rates and actuarial methods can be found on the ODM website in Appendix E of the Medicaid Managed Care provider agreement.

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**

This rule requires managed care plans (MCPs) to share specific information with the Ohio Department of Medicaid (ODM) and certain providers. This information includes: MCP contact information, prior authorization procedures, a listing of panel labs and pharmacies, documentation of non-contracting providers upon ODM request and provider referral approvals/denials.

The MCPs are also required to provide a toll-free 24/7 call-in system for MCP member access and must maintain a log of calls to that call-in system.

MCPs are required to implement written policies and procedures with regard to their required utilization management (UM) program. The MCP's UM program must document: an annual review and update of the UM program, the use of certain health professionals and consultants including compensation information for these activities, the reason for each service denial, and that UM decisions are consistent with clinical practice guidelines (medical necessity).

As part of the UM program, MCPs must have written policies related to process

requests for service authorizations from providers and members. The policies must be made available to ODM and providers upon request. MCPs must send written notice to a member and provider of any decision to reduce, suspend, terminate, or deny a service authorization request, or to authorize a service in scope, duration or amount that is less than requested. Service authorization decisions for covered outpatient drugs must be made by telephone or other telecommunication device. MCPs must maintain and submit to ODM a record of all authorization requests. Regarding the mandatory Coordinated Services Program, MCPs must notify members of their hearing rights when enrolled in this program.