Rule Summary and Fiscal Analysis
Part A - General Questions

Rule Number: 5160-26-03.1

Rule Type: Amendment

Rule Title/Tagline: Managed health care programs: primary care and utilization management.

Agency Name: Ohio Department of Medicaid

Division:

Address: 50 West Town Street Suite 400 Columbus OH 43218-2709

Contact: Tommi Potter **Phone:** 614-752-3877

Email: Tommi.Potter@medicaid.ohio.gov

I. Rule Summary

1. **Is this a five year rule review?** Yes

   A. **What is the rule's five year review date?** 4/15/2022

2. **Is this rule the result of recent legislation?** No

3. **What statute is this rule being promulgated under?** 119.03

4. **What statute(s) grant rule writing authority?** 5167.02

5. **What statute(s) does the rule implement or amplify?** 5160.34, 5167.02, 5167.03, 5167.10, 5167.13, 5167.41

6. **What are the reasons for proposing the rule?**

   This rule is being proposed for amendment to update policy relating to the administration of the Medicaid managed care program, including implementation of the single pharmacy benefit manager (SPBM).

7. **Summarize the rule's content, and if this is an amended rule, also summarize the rule's changes.**

OAC rule 5160-26-03.1, entitled "Managed care: primary care and utilization management", sets forth the requirements for managed care organizations (MCOs) and the SPBM related to members' primary care providers (PCPs) and utilization management. The rule is being proposed for amendment to update policy related to administration of the Medicaid managed care program and for five year rule review. Changes to the rule include: revising the title of the rule, adding a clarification that the rule does not apply to the OhioRISE plan in paragraph (A), changing references from "managed care plans" to "managed care organizations" in accordance with OAC rule 5160-26-01, adding language about compliance with the Metal Health Parity and Addiction Equity Act (MHPAEA) in paragraph (C)(2)(h), removing language regarding service authorizations not being reached in the specified timeframes in paragraph (C)(3)(g) as the language is duplicative of requirements found in OAC rule 5160-26-08.4, clarifying prior authorization requirements and timeframes for covered outpatient drugs in paragraph (C)(3)(g), removing requirement to implement an emergency department diversion program in paragraph (C)(4), adding references to the SPBM where applicable throughout the rule, other grammatical and technical edits, and updating references to United States Code.

8. **Does the rule incorporate material by reference?** Yes

9. **If the rule incorporates material by reference and the agency claims the material is exempt pursuant to R.C. 121.75, please explain the basis for the exemption and how an individual can find the referenced material.**

   This rule incorporates one or more references to another rule or rules of the Administrative Code. This question is not applicable to any incorporation by reference to another Administrative Code rule because such reference is exempt from compliance with RC 121.71 to 121.74 pursuant to RC 121.75(A)(1). OAC Medicaid rules may be found online at: http://codes.ohio.gov/oac/5160.

   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)(2).

10. **If revising or re-filing the rule, please indicate the changes made in the revised or re-filed version of the rule.**

    Not Applicable

II. Fiscal Analysis

11. **Please estimate the increase / decrease in the agency's revenues or expenditures in the current biennium due to this rule.**

    This will have no impact on revenues or expenditures.

    $0

    Not applicable.

12. **What are the estimated costs of compliance for all persons and/or organizations directly affected by the rule?**

    There are no new costs of compliance with the changes to this rule. MCOs and the SPBM are paid per member per month and receive funds to cover required services. ODM must pay MCOs and the SPBM rates that are actuarially sound, as determined by an outside actuary in accordance with 42 CFR 438.4 and CMS's "Managed Care Rate Setting Consultants on Guide."

13. **Does the rule increase local government costs? (If yes, you must complete an RSFA Part B).** No

14. **Does the rule regulate environmental protection? (If yes, you must complete an RSFA Part C).** No

15. **If the rule imposes a regulation fee, explain how the fee directly relates to your agency's cost in regulating the individual or business.**

    Not applicable.

III. Common Sense Initiative (CSI) Questions

16. **Was this rule filed with the Common Sense Initiative Office?** Yes

17. **Does this rule have an adverse impact on business?** Yes

    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 organizations (MCOs) and the single pharmacy benefit manager (SPBM) to have a utilization management (UM) program. MCOs and the SPBM are required to implement written policies and procedures with regard to their required UM program. The MCO and SPBM'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, MCOs and the SPBM must have written policies and procedures to process initial requests and continuing authorization for services. The policies must be made available to ODM and contracting or non-contracting providers upon request. MCOs and the SPBM 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. MCOs and the SPBM must maintain and submit to ODM a record of all authorization requests.

D. Is it likely that the rule will directly reduce the revenue or increase the expenses of the lines of business of which it will apply or applies? No

IV. <u>Regulatory Restrictions (This section only applies to agencies indicated in R.C. 121.95 (A))</u>

18. Are you adding a new or removing an existing regulatory restriction as defined in R.C. 121.95? Yes

A. How many new regulatory restrictions do you propose adding? 3

5160-26-03.1(C)(3)(g)(i) - the regulatory restriction is being added to this paragraph due to restructuring of the rule and being reincorporated into a subparagraph for clarity.

5160-26-03.1(C)(3)(g)(ii) - the regulatory restriction is being added to this paragraph due to restructuring of the rule and being reincorporated into a subparagraph for clarity.

5160-26-03.1(C)(3)(g)(iii) - the regulatory restriction is being added to this paragraph due to restructuring of the rule and being reincorporated into a subparagraph for clarity.

B. How many existing regulatory restrictions do you propose removing? 4

5160-26-03.1(C)(3)(g) [removed paragraph] - the regulatory restriction is being removed from this paragraph as it is duplicative of language in another Ohio Administrative Code rule.

5160-26-03.1(C)(3)(g) [renumbered paragraph] - the regulatory restriction is being removed from this paragraph due to restructuring of the rule and being reincorporated into a subparagraph [(C)(3)(g)(iii)] for clarity.

5160-26-03.1(C)(3)(g) [renumbered paragraph] - the regulatory restriction is being removed from this paragraph as it is duplicative of language in another Ohio Administrative Code rule.

5160-26-03.1(C)(4) - the regulatory restrictions is being removed from this paragraph as the program is no longer effective.