ACTION: Original

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Rule Summary and Fiscal Analysis (Part A)

Ohio Department of Medicaid
Agency Name

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5160-26-03
Rule Number

AMENDMENT
TYPE of rule filing

Rule Title/Tag Line **Managed health care programs: covered services.**

RULE SUMMARY

1. Is the rule being filed for five year review (FYR)? **Yes**

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: **5167.02**

5. Statute(s) the rule, as filed, amplifies or implements: **5167.03, 5167.10, 5167.20, 5167.201, 5164.34**

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

Rule 5160-26-03, Managed health care programs: covered services, is being proposed for amendment to update policy related to the administration of the Medicaid managed care program and in compliance with 5 year rule review.

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 services which must be covered by managed care plans (MCPs) and addresses any exclusions or limitations for those services. Respite is a covered service set forth in this rule, to provide short-term, temporary relief to the unpaid caregiver of a child under the age of twenty-one. This rule is being proposed for amendment to include respite services for children who have been diagnosed with serious emotional disturbance resulting in a functional impairment and to update the criteria for children with long-term care needs. The eligibility requirements have been modified and the provider accreditation requirements have been added for behavioral health providers of respite services. The annual number of Medicaid payable respite service hours per eligible child has been modified. Edits were made to language to clarify that exclusions, limitations and clarifications relates to the MCP#s responsibilities for payment of other services. Other necessary general grammatical and organizational updates were made.

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.

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: **11/10/2016**

(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.

5,000,000.00

With the redesign of respite service, ODM will allocate up to $10,000,000 to the respite service budget each fiscal year. Because this service is beginning in January, the increase is expected to be $5,000,000 for respite services for the remaining 6 months of the biennium.

ODM consulted with the department's actuary responsible for calculating Managed Care Plan (MCP) capitated rates. Milliman used factors such as estimated costs and service utilization.

14. Identify the appropriation (by line item etc.) that authorizes each expenditure necessitated by the proposed rule:

Budget Line Item 651525 "Medicaid/Health Care Services."

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:

Managed care plans (MCPs) are paid per member per month and will receive additional funds to cover respite services. ODM must pay MCPs rates that are actuarially sound, as determined by an outside actuary in accordance with 42 CFR 438.6(c) 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.

By adding funds to the budget for respite services and including the new population of children with behavioral health needs to the eligible recipients of respite services, behavioral health respite providers will now be eligible for Medicaid payment. Also, by modifying the respite eligibility criteria for children with long-term care needs, long-term care respite providers may see additional children with respite service needs.

All respite provider agencies are required to be accredited by at least one of several accreditation entities. The average cost of accreditation is between $1,295 and $2,300 annually. Costs vary depending on the size of the facility, the number of employees, facility type, the average daily population being served and whether there are satellite offices. Additionally, all respite provider agencies must have a Medicaid provider agreement, the cost associated with obtaining a Medicaid provider agreement is currently $554. This fee may be paid to Ohio Medicaid, their designated agency or to Medicare. It is paid at initial application and then at re-validation every five years.

All individual respite providers working for an agency must be first aid certified. The City of Columbus Division of Fire offers a certification course for $30.00 per person. Individual providers also must obtain a certificate of completion of a competency evaluation program approved by the Ohio Department of Health (ODH) or a Medicare competency evaluation program for home health aides. Per ODH, the cost of this certification can range from approximately $200 to $500 depending on where they take the course and who is presenting the materials.

Behavioral health respite providers must be certified by OhioMHAS. The cost of certification through OhioMHAS is based upon the budget of the agency that is applying for certification. The fee schedule showing the correlation between the agency#s budget and the certification cost is located in OhioMHAS OAC rule 5122-25-08. A provider already certified by OhioMHAS, requesting to add an additional service(s) pays a fee based only upon their budget for the new service(s), not their entire budget. When the agency has appropriate accreditation from The Joint Commission, CARF, or COA there is no certification fee owed to OhioMHAS.

Additionally, individual LTC providers must maintain evidence of completion of twelve hours of in-service continuing education per year. On average, the cost for continuing education courses can range from free of charge to $12 per course.

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**

OAC rule 5160-36-03 holds managed care plans (MCPs) financially responsible for payment of certain services including respite for children. Requirements in addition to the payment for covered services as outlined in this rule include: establishing, in writing, a process for the submission of claims for services delivered by non-contracting providers; designating a telephone line to receive provider requests for coverage of certain services; and submitting a written request or notification to ODM, contracting providers and members.

All respite provider agencies are required to be accredited by at least one of several accreditation entities, to comply with background check requirements, and to be enrolled as Medicaid providers. All behavioral health respite provider agencies must be certified by OhioMHAS. All agency employees must obtain first aid certification. Individual long-term care respite providers must maintain evidence of completion of twelve hours of in-services continuing education each year.