Rule Summary and Fiscal Analysis
Part A - General Questions

Rule Number: 5160-26-03

Rule Type: Amendment

Rule Title/Tagline: Managed health care programs: covered services.

Agency Name: Ohio Department of Medicaid

Division:

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I. Rule Summary

1. **Is this a five year rule review?** No

   A. **What is the rule's five year review date?** 2/1/2022

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?** 5167.03, 5167.04, 5167.10, 5167.20, 5164.34, 5167.201

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

   This rule is being proposed for amendment to update policy related to the administration of the Medicaid Managed Care program.

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

   OAC rule 5160-26-03, entitled "Managed health care programs: covered services," describes the services which must be covered by managed care plans (MCPs) and addresses any exclusions or limitations for those services. The proposed changes to

the rule are related to implementation of "Behavioral Health Carve-in" beginning July 1, 2018. This is when MCPs become responsible for coverage of behavioral health services provided to managed care members by community behavioral health centers certified by the Ohio Department of Mental Health and Addiction Services (OhioMHAS). Paragraph (H)(3) related to the community behavioral health center requirements was removed to align with behavioral health services being "carved-in" to managed care.

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. 121.71 to 121.76, 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 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 Code of Federal Regulations (CFR). This 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). The eCFR is available online at: http://www.ecfr.gov/cgi-bin/ECFR?page=browse

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. **As a result of this proposed rule, please estimate the increase / decrease in revenues or expenditures affecting this agency, or the state generally, in the current biennium**

or future years. If the proposed rule is likely to have a different fiscal effect in future years, please describe the expected difference and operation.

This will have no impact on revenues or expenditures.

0.00

No impact on current budget.

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

Managed care plans (MCPs) are paid per member per month. ODM must pay MCPs and MCOPs rates that are actuarially sound, as determined by an outside actuary in accordance with 42 CFR 438.6(c) and CMS's "Managed Care Rate Setting Consultation Guide." Ohio Medicaid capitation rates are "actuarially sound" for the period covered by the certification, projected capitation rates and other revenue sources provide for all reasonable, appropriate and attainable costs. Costs include but are not limited to expected health benefits, prescription costs, health benefit settlement expenses, administrative expenses, the cost of capital and government mandated assessments, fees, and taxes.

All rates and actuarial methods can be found on the ODM website in Appendix E of both the Medicaid Managed Care and MyCare Ohio provider agreements. Through the administrative component of the capitation rate paid to the MCPs and MCOPs by ODM, MCPs and MCOPs will be compensated for the cost of the requirements found in this rule. For CY 2018, the administrative component of the capitation rate varies by program/population and ranges from 3.50% to 8.48% for MCPs and from 2.25% to 10.00% for MCOPs.

Respite providers must hold 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 revalidation every five years. This is not a new cost as a result to changes to the rule.

Fees for the BCII criminal records check for all applicants considered for employment may vary depending on the location or agency providing the service, but on average cost approximately $22.00. The fee for criminal records check from the FBI for each applicant considered for employment, who has not resided in Ohio for five years is currently $24.00 which may vary depending on the location or agency providing the service. BCII accepts and processes FBI background checks. Fees associated with

criminal records checks are passed to the applicant/employee resulting in no impact to the agency. This is not a new cost as a result to changes to the rule.

Respite provider agencies must be certified through 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. This is not a new cost as a result to changes to the rule.

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. This is not a new cost as a result to changes to the rule.

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. Additionally, individual 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. This is not a new cost as a result to changes to the rule.

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

III. Common Sense Initiative (CSI) Questions

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

16. **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

OAC rule 5160-26-03 holds managed care plans (MCPs) financially responsible for payment of certain services. 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 written requests or notifications to the Ohio Department of Medicaid (ODM), contracting providers and members.

Provider agencies are required to: be accredited by at least one of several national accreditation entities; hold a Medicaid provider agreement, comply with applicable background check requirements; and behavioral health provider agencies must be Ohio Department of Mental Health and Addiction Services (OhioMHAS) certified.

Agency employees, including long term care providers, must obtain a certificate of completion from the Ohio Department of Health or a Medicare competency evaluation program; all providers must obtain first aid certification; and long-term care providers must obtain evidence of completion of twelve hours of in-service continuing education each year.