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?** 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?** 5167.03, 5167.04, 5167.10

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, entitled "Managed care: covered services" sets forth the services which must be covered by managed care organizations (MCOs) and the SPBM and addresses any exclusions or limitations for those services. 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), removing definitions in paragraph (E)(3)(f) that are now included in OAC rule 5160-26-01, adding a requirement for the MCO to cover two dental screenings per year for pregnant members in paragraph (E)(16), removing language related to respite services in paragraph (E)(17) as this language is included in a new OAC rule 5160-26-03.2, adding a clarification that the MCO is not responsible for covering OhioRISE plan services in paragraph (E)(18), adding references to the SPBM where applicable throughout the rule, and other grammatical and technical edits.

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 references to the Revised Code. This question is not applicable to any incorporation by reference to the Revised Code because such reference is exempt from compliance with RC 121.71 to 121.74 pursuant to RC 121.75(A)(1). The Ohio Revised Code references may be found online at: http://codes.ohio.gov/orc/51.

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

OAC rule 5160-26-03, entitled "Managed care: covered services", was revised to reflect the staggered implementation of the single pharmacy benefit manager (SPBM).

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 decrease expenditures.

$312M

Implementation of the SPBM brings much needed accountability and price transparency for Ohio taxpayers and Ohio pharmacies, providing assurance that Ohio's tax dollars are spent appropriately. In addition, implementation of the SPBM significantly reduces costs by eliminating duplicative MCO administrative expenses and risk margin across multiple MCOs resulting in savings of $128M in SFY 2022 and savings of $184.4M in SFY 2023.

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

OAC rule 5160-26-03 holds managed care organizations (MCOs) 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 written requests or notifications to the Ohio Department of Medicaid (ODM), contracting providers and members.

MCOs are paid per member per month and receive funds to cover required services. ODM must pay MCOs 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 Consultation Guide. All rates and actuarial methods can be found on the ODM website in the Medicaid Managed Care provider agreement.

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 OhioMHAS certified.

Agency employees: 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 services continuing education each year.

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. Regulatory Restrictions (This section only applies to agencies indicated in R.C. 121.95 (A))

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?** 2

5160-26-03(E)(16) - the regulatory restriction is being added to ensure managed care organizations provide two dental screenings per year to pregnant members in accordance with the Ohio Revised Code.

5160-26-03(E)(18) - the regulatory restriction is being added to ensure managed care organizations provide respite services in accordance with a new Administrative Code rule.

B. How many existing regulatory restrictions do you propose removing? 13

5160-26-03(E)(17) - the regulatory restrictions regarding respite services are being removed from this rule as ODM is creating new Administrative Code rules related to respite services.

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