

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

Agency Name

Division

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5160-26-05

Rule Number

AMENDMENT

TYPE of rule filing

Rule Title/Tag Line

Managed health care programs: provider panel and subcontracting requirements.**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? **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: **5162.20, 5164.02, 5167.02, 5167.03, 5167.10**

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

Rule 5160-26-05, entitled Managed health care programs: provider panel and subcontracting requirements, is being amended to align managed care policy language with terminology found in 42 C.F.R. 438.2.

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 provider panel and subcontracting requirements for the Medicaid managed care plans (MCPs). The rule describes a delegated entity as a subcontractor of the MCP with authority to conduct administrative functions on behalf of the MCP, such as: claims processing, interpreter services and provider credentialing. The rule uses the term subcontractor to describe health care providers within the MCPs network.

42 C.F.R. 438.2 delineates the difference between a subcontractor for administrative functions and a health care provider. Language related to subcontractors (administrative service providers) has been removed from rule and incorporated into the MCP contracts to allow for flexibility to adapt to business needs.

Changes to rule 5160-26-05 include: Updated rule number references to reflect statutory and Administrative Code changes; replaced the term subcontractor with the term provider or contracted provider throughout to clarify that this rule pertains to healthcare providers only; removed language related to the subcontracted administrative providers; and general grammatical and technical corrections.

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 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>

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 121.76(B)(2). The United States Code is available online at: <http://uscode.house.gov/>

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: **5/1/2022**

(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

Not applicable.

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.

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**

Rule 5160-26-05 requires Ohio Department of Medicaid (ODM) contracted

managed care plans (MCPs) to evaluate delegated entities and report the evaluation summary and other subcontract information to ODM. It also requires MCPs to provide information, materials and documentation to a delegated entity and to submit an annual assessment of the delegated entity's performance to ODM annually. All language regarding the delegated entity is being rescinded from the rule. MCPs are required to notify ODM, providers and/or members of the addition or removal of health care providers from their provider panel including the expiration, non-renewal or termination of any provider subcontract.