

Rule Summary and Fiscal Analysis

Part A - General Questions

Rule Number: 5160-26-05

Rule Type: Amendment

Rule Title/Tagline: Managed health care programs: provider panel and subcontracting requirements.

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?** 5162.02, 5164.02, 5167.02, 5167.03, 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 5160-26-05, entitled "Managed care: provider panel and contracting requirements", sets forth managed care provider panel and contracting requirements. This rule is applicable to managed care organizations (MCOs), the single pharmacy benefit manager (SPBM), MyCare Ohio Plans (MCOPs), and the OhioRISE plan, hereinafter referred to collectively as managed care entities (MCEs). 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, changing references from "subcontracts" to "provider contracts" throughout the rule, adding references to MCE and SPBM where applicable throughout the rule, adding clarification about ODM credentialed providers in paragraph (C)(4), adding reference to OAC rule 5160-1-13.1 regarding billing members and removed duplicative rule language in paragraph (D)(9)(b), other grammatical and technical edits, and updating references to United States Code and the Code of Federal Regulations.

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 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(A)(2). The eCFR is available online at: <http://www.ecfr.gov/cgi-bin/ECFR?page=browse>.

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>.

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 entities (MCEs) to report certain information related to their subcontracts to ODM upon request, including making subcontracts themselves available. The MCEs are also required to notify ODM, providers, and/or members of the addition or renewal of healthcare providers from their provider panel including the expiration, non-renewal, or termination of any provider subcontract. Through the administrative component of the capitation rate paid to MCEs by ODM, MCEs will be compensated for the cost of the requirements found in this rule.

- 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? 0
- B. How many existing regulatory restrictions do you propose removing? 1

5160-26-05(B)(3) - the regulatory restriction is being removed as the sentence was reworded for clarity.