

## Rule Summary and Fiscal Analysis

### Part A - General Questions

**Rule Number:** 5160-26-08.4

**Rule Type:** Amendment

**Rule Title/Tagline:** Managed care: appeal and grievance system.

**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?** 10/14/2022
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?** 5164.02, 5167.13, 5167.03, 5167.10
6. **Does the rule implement a federal law or rule in a manner that is more stringent or burdensome than the federal law or regulation requires?** No
  - A. **If so, what is the citation to the federal law or rule?** Not Applicable
7. **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.
8. **Summarize the rule's content, and if this is an amended rule, also summarize the rule's changes.**

Rule 5160-26-08.4, "Managed health care programs: managed care plan appeal and grievance system," sets forth the appeal and grievance rights and responsibilities for MCOs, the SPBM, and the members enrolled with those entities. This rule is applicable to MCOs, the SPBM, and the OhioRISE plan. The rule is being proposed for amendment to update policy related to administration of the Medicaid managed care program. Changes to the rule include: revisions to ODM form dates to remove obsolete date references.

- 9. Does the rule incorporate material by reference? Yes**
- 10. 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>.

- 11. 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**

- 12. 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.

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Not applicable.

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

This rule requires MCOs and the SPBM to maintain records and other documentation, to provide notice to members in specified timeframes, and to submit reports to ODM. These requirements are federally mandated.

o MCOs and the SPBM must provide a written notice to members of an adverse benefit determination.

o MCOs and the SPBM must acknowledge receipt of an appeal or grievance with the member or authorized representative.

o MCOs and the SPBM must provide the member or authorized representative written notice of the resolution.

o MCOs and the SPBM must maintain records of all appeals and grievances and submit this information to ODM as directed.

o In order to comply with coordination of benefits requirements outlined in this rule, MCOs and the SPBM are required to share information regarding third party resources with the service provider via explanation of payment.

A precise estimate of these costs would vary depending on multiple factors, including the number of notices and reports generated as a part of the grievance and appeal process, and the systems employed by each MCO to generate the required notices and reports. 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 Guide."

**14. Does the rule increase local government costs? (If yes, you must complete an RSFA Part B). No**

**15. Does the rule regulate environmental protection? (If yes, you must complete an RSFA Part C). No**

**16. 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**

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

**18. 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 organizations (MCOs), the single pharmacy benefit manager (SPBM), and the OhioRISE plan to submit information to the Bureau of State Hearings (BSH) and ODM, complete BSH specific forms related to state hearings requests, and maintain documentation related to grievance and appeal extensions.

- 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 Restriction Requirements under S.B. 9. Note: This section only applies to agencies described in R.C. 121.95(A).**

19. Are you adding a new or removing an existing regulatory restriction as defined in R.C. 121.95? No

- A. How many new regulatory restrictions do you propose adding to this rule?

Not Applicable

- B. How many existing regulatory restrictions do you propose removing from this rule?

Not Applicable

- C. If you are not removing existing regulatory restrictions from this rule, please list the rule number(s) from which you are removing restrictions.

Not Applicable

- D. Please justify the adoption of the new regulatory restriction(s).

Not Applicable