

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

Agency Name

Division

**Tommi Potter**

Contact

**50 West Town Street Suite 400 Columbus OH  
43218-2709**

Agency Mailing Address (Plus Zip)

**614-752-3877**

Phone

Fax

**Tommi.Potter@medicaid.ohio.gov**

Email

**5160-26-08.4**

Rule Number

**AMENDMENT**

TYPE of rule filing

Rule Title/Tag Line

**Managed health care programs: MCP grievance system.****RULE SUMMARY**

1. Is the rule being filed for five year review (FYR)? **Yes**
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: **5162.03, 5164.02, 5167.03, 5167.10, 5167.13**
6. State the reason(s) for proposing (i.e., why are you filing,) this rule:  
Five year rule review.
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:

The rule sets forth requirements for the Medicaid managed care plan (MCP) grievances and appeals and describes three avenues allowing a member to challenge certain actions taken by the MCP: (1) a grievance process, (2) an appeal to the MCP, and (3) a process allowing members to access the State's hearing system through the Ohio Department of Job and Family Services (ODJFS). Changes to the rule update and reorganize language regarding the obligations of the MCPs with respect to the grievance and appeals process and the processes for members to access the three avenues available to them. Additional amendments to the rule clarify that this rule does not apply to MyCare Ohio plans, and update legal citations and cross-references.

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. This question is not applicable to any incorporation by reference to another Ohio Administrative Code rule because such reference is exempt from compliance with ORC 121.71 to 121.74 pursuant to ORC 121.76(A)(3).

This rule incorporates one or more dated references to the Code of Federal Regulations. This question is not applicable to any dated incorporation by reference to the Code of Federal Regulations because such reference is exempt from compliance with ORC 121.71 to 121.74 pursuant to ORC 121.75(D).

This rule incorporates dated references to ODM and ODJFS forms. Each cited ODM form is dated and is generally available to persons affected by this rule via the "Resources" and "Publications" links on the ODM web site (<http://medicaid.ohio.gov/>) in accordance with RC 121.75(E). Each cited ODJFS form is dated and is generally available to persons affected by this rule via the ODJFS web site (<http://odjfs.state.oh.us/forms/>) in accordance with RC 121.75(E).

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:

The rule is being revised to change the reference for standard appeals from (E) to (D) in rule 5160-26-08.4(E)(2) and change the reference from "MyCare Ohio plan" to "MCP" in rule 5160-26-08.4(K).

12. Five Year Review (FYR) Date: **10/30/2014**

(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

No impact on current budget.

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:

An MCP may incur costs in complying with requirements regarding appeals and grievances. Specifically, an MCP is required to maintain written policies and procedures governing grievances, appeals to the MCP, and appeals to the Ohio Department of Job and Family Services (ODJFS) state hearing system. These policies and procedures must be described in a handbook distributed to members. An MCP is required to provide clear and timely notice to a member of any action that will affect a member's services, and notice of the process through which the member can challenge the proposed action. After an appeal to an MCP is resolved, the MCP must provide written notice of the decision arising from the appeal. For an appeal to the ODJFS state hearing system, an MCP is required to complete a written appeal summary that provides all facts and documents relevant to the case. If the member prevails at a state hearing, the MCP must complete a compliance form which must be returned to the ODJFS Bureau of State Hearings.

It is not possible to provide an estimate of the costs on a particular MCP. The costs will vary based on the number of appeals submitted by members. Through the administrative component of the capitation rate paid to the managed care plans by the Department of Medicaid, the MCPs will be compensated for the cost of the time required in maintaining and submitting required reports, notices, policies and procedures.

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**

This rule requires reports of information.