

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

Agency Name

Tommi Potter

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Division

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5160-26-08.4

Rule Number

NEW

TYPE of rule filing

Rule Title/Tag Line

Managed health care programs: managed care plan appeal and grievance system.**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: **5164.02, 5167.13, 5167.03, 5167.10**
6. State the reason(s) for proposing (i.e., why are you filing,) this rule:

This rule is being proposed to update policy relating to the administration of the Medicaid managed care program.

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 the Medicaid managed care plan (MCP) appeal and grievance rights. Several changes to this rule are being made to align state policy with new federal regulations in the Code of Federal Regulations (CFR). Definitions are being updated to reflect language changes in the CFR. Ohio Administrative Code (OAC) and CFR references are also being updated. General updates are being made to

terminology, grammar and formatting. Other changes to this rule are being made to comply with federal requirements in 42 CFR 438.400 through 438.424 related to the MCP appeals and grievance process including: timelines for a member to request an appeal or grievance, MCP appeal or grievance resolution timeframes, and the process for a member to request and be granted a state hearing.

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 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 an ODM form or forms. Each cited ODM form is dated and is generally available to persons affected by this rule via the "Resources/Publication/Forms Central" link on the Ohio Department of Medicaid web site (<http://medicaid.ohio.gov/>) 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:

In paragraph (B)(2), the Code of Federal Regulation (CFR) reference was updated to 42 CFR 438.10. The incorrect reference was included in the previous version of the rule.

In paragraph (B)(3)(d), an oxford comma was added to the first sentence to clarify the language.

12. Five Year Review (FYR) Date:

(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 biennium 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:

Rule 5160-26-08.4 requires MCPs to submit information to ODM and the Bureau of State Hearings for members who request an appeal through the MCP or a state fair hearing. The changes to the rule do not result in any new costs of compliance. Managed care plans (MCPs) are paid per member per month and receive funds to cover required services. ODM must pay MCPs rates that are actuarially sound, as determined by an

outside actuary in accordance with 42 CFR 438.6(c) and CMS's 2016 Managed Care Rate Setting Consultation Guide. All rates and actuarial methods can be found on the ODM website in Appendix E of the Medicaid Managed Care provider agreement.

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.