

TO BE RESCINDED

5160-26-09 Managed health care programs: payment and financial responsibility.**(A) Payment.**

- (1) The Ohio department of medicaid (ODM) will compute managed care plan (MCP) premium rates on an actuarially sound basis in accordance with 42 C.F.R. 438.5 (October 1, 2017). The premium rates do not include any amount for risks assumed under any other existing or any previous agreement or contract. ODM will review the premium rates at least annually and the rates may be modified based on existing actuarial factors and experience.
- (2) The MCP will receive a monthly premium payment for each member from ODM.
- (3) When an MCP provides or arranges for maternity coverage, ODM will make a separate payment to the MCP for each reimbursable delivery for applicable covered populations described in rule 5160-26-02 of the Administrative Code.
- (4) The amounts paid by ODM in accordance with this paragraph represent a full-risk arrangement and the total obligation of ODM to the MCP for the costs of medical care and services provided. Any savings or losses remaining after costs have been deducted from the premium will be wholly retained by the MCP.
- (5) Payments made by ODM in accordance with this paragraph will be in effect for the duration of the provider agreement entered into between ODM and the MCP unless restricted in accordance with rule 5160-26-10 of the Administrative Code or the terms of the provider agreement.
- (6) ODM may establish financial incentive programs based on performance for MCPs.

(B) Fiscal responsibility requirements.

- (1) An MCP must maintain a fiscally-sound operation and meet ODM performance standards.
- (2) An MCP must make provisions against the risk of insolvency.
- (3) Neither members nor ODM shall be liable for any MCP debts, including those that remain in the event of MCP insolvency or the insolvency of any subcontractors.
- (4) An MCP must pay providers in accordance with 42 C.F.R. 447.46 (October 1, 2017).

(5) The following requirements apply to an MCP licensed as a health insuring corporation (HIC) by the Ohio department of insurance (ODI):

- (a) A copy of the MCP's current license or certificate of authority must be submitted to ODM annually, no later than thirty days after issuance;
- (b) Copies of all annual and quarterly financial statements and any revision to such copies must be submitted to ODM. For purposes of this rule, "annual financial statement" is the annual statement of financial condition prescribed by the "National Association of Insurance Commissioners" (NAIC) and required by ODI in accordance with sections 1751.32 and 1751.47 of the Revised Code.
- (c) The MCP must submit to ODM a copy of its audited financial statement as compiled by an independent auditor and including the statement of reconciliation with statutory accounting principles as required by ODI in accordance with section 1751.321 of the Revised Code. The statement must be submitted annually to ODM.

(6) The following items must be submitted by each MCP as so indicated:

- (a) Cost reports on ODM forms quarterly and annually as directed by ODM. The MCP must adhere to ODM provider agreement and cost report instructions;
- (b) Financial disclosure statements to be submitted in conjunction with cost report submissions as specified in paragraph (B)(5)(b) of this rule for MCPs. The MCP must also submit copies of annual financial statements for those entities who have an ownership interest totaling five percent or more in the MCP, or an indirect interest of five percent or more or a combination of direct and indirect interest equal to five percent or more in the MCP; and
- (c) MCP physician incentive plan disclosure statements in accordance with 42 C.F.R. 438.3 (October 1, 2017).

(C) Reinsurance requirements.

- (1) All MCPs must carry reinsurance coverage from a licensed commercial carrier to protect against catastrophic inpatient-related medical expenses incurred by medicaid members.

- (2) To the extent that the risk for such expenses is transferred to a subcontractor, the MCP must provide proof of reinsurance coverage for that subcontractor in accordance with the provisions of this paragraph.
- (3) A copy of the fully-executed reinsurance agreement to provide the specified coverage must be submitted to ODM prior to the effective date of the provider agreement. No provider agreement will be signed in the absence of such documentation.
- (4) The annual deductible must be specified in the reinsurance agreement and must not exceed the amount specified by ODM.
- (5) The reinsurance coverage must remain in force during the term of the provider agreement with ODM and must contain adequate provisions for contract extensions.
- (6) The MCP shall provide written notification to ODM when directed by ODM, specifying the dates of admission, diagnoses, and estimates of the total claims incurred for all medicaid members for which reinsurance claims have been submitted.
- (7) The MCP must give ODM prior written notice of any proposed changes or modifications in the reinsurance agreements for ODM review and approval. Such notice shall be submitted to ODM thirty days prior to the intended effective date of any proposed change and must include the complete and exact text of the proposed change. The MCP must provide copies of new or modified reinsurance agreements to ODM within thirty days of execution.
- (8) In the event of termination of the reinsurance agreement due to insolvency of the MCP or the reinsurance carrier, the MCP will be fully responsible for all pending or unpaid claims.
- (9) Any reinsurance agreements which cover expenses to be paid for continued benefits in the event of insolvency must include medicaid members as a covered class.
- (10) Reinsurance requirements for partial-risk arrangements may differ from those specified in this paragraph.

Effective: 7/19/2020

Five Year Review (FYR) Dates: 5/4/2020

CERTIFIED ELECTRONICALLY

Certification

07/09/2020

Date

Promulgated Under: 119.03
Statutory Authority: 5167.02
Rule Amplifies: 5162.03, 5164.02, 5164.70, 5167.03, 5167.10
Prior Effective Dates: 04/01/1985, 05/02/1985, 10/01/1987, 02/15/1989 (Emer.), 05/08/1989, 05/01/1992, 05/01/1993, 11/01/1994, 05/08/1995, 07/01/1996, 07/01/1997 (Emer.), 09/27/1997, 07/04/1998, 07/01/2000, 11/18/2000, 07/01/2001, 07/01/2003, 07/01/2004, 10/31/2005, 06/01/2006, 02/01/2015, 01/01/2018