

Rule Summary and Fiscal Analysis

Part A - General Questions

Rule Number: 5160-27-03

Rule Type: Amendment

Rule Title/Tagline: Reimbursement for community behavioral health services.

Agency Name: Ohio Department of Medicaid

Division:

Address: 50 Town St 4th floor Columbus OH 43218-2709

Contact: Tommi Potter **Phone:** 614-752-3877

Email: tommi.potter@medicaid.ohio.gov

I. Rule Summary

1. **Is this a five year rule review?** No
 - A. **What is the rule's five year review date?** 4/30/2023
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?** 5162.02, 5164.02
5. **What statute(s) does the rule implement or amplify?** 5162.05, 5164.02, 5164.03, 5164.15, 5164.76

6. **What are the reasons for proposing the rule?**

This rule is being proposed for amendment to update ODM policy.

7. **Summarize the rule's content, and if this is an amended rule, also summarize the rule's changes.**

Rule 5160-27-03 entitled "Reimbursement for community behavioral health services" sets forth the general reimbursement policy for behavioral health services provided by community mental health and substance use disorder treatment providers. The proposed revisions increase the reimbursement rate to one hundred per cent of

the Medicaid maximum for evaluation and management and psychiatric diagnostic evaluation services when rendered by Certified Nurse Practitioners, Certified Nurse Specialists, or Physician Assistants. It also increases the reimbursement rate for crisis services for mental health (MH) and substance use disorders (SUD) as well as for group psychotherapy and group therapeutic behavioral services (TBS) for MH and group counseling for SUD. Smoking cessation counseling as well as place of service codes are being added. New language states the third party payment policy for behavioral health providers. Finally, another proposed revision removes existing language regarding health homes as the service is no longer in effect.

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. 121.71 to 121.76, 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 Ohio Administrative Code. 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 121.75.

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 references to the CFR because such reference is exempt from compliance with RC 121.71 to 121.74 in accordance with RC 121.75.

10. **If revising or re-filing the rule, please indicate the changes made in the revised or re-filed version of the rule.**

The appendix to this rule is being revised to add allowable place of service number 99 to the services coded H0005.

II. Fiscal Analysis

11. **As a result of this proposed rule, please estimate the increase / decrease in revenues or expenditures affecting this agency, or the state generally, in the current biennium or future years. If the proposed rule is likely to have a different fiscal effect in future years, please describe the expected difference and operation.**

This will increase expenditures.

\$42 Million per SFY

The increased expenditures are due to the increased reimbursement rates for some behavioral health services as compared to the current rates.

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

While a provider may experience increased expenses due to having to update a billing system in order to bill a third party payer or to meet new coding requirements, these costs would result in a billing system that would permit the provider to bill for and receive increased reimbursement for services rendered as permitted by the proposed rule amendment language. Any expense due to this adverse impact could vary depending on various factors such as if the provider uses its own billing system (and the complexity of the system) or if the provider uses a third party to conduct its billing activities.

The proposed revisions to this rule might create a cost of compliance if the provider voluntarily chooses to revise its billing system in order to take advantage of the increased reimbursement rates provided for by the proposed revisions.

Quantifying the cost is difficult because of the significant variance of business design, number of service locations, agency workforce, client caseload, and business acumen among Ohio's 820 Medicaid enrolled providers of behavioral health services as well as Medicaid managed care plans.

This rule does not apply a regulation fee.

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

III. Common Sense Initiative (CSI) Questions

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

16. Does this rule have an adverse impact on business? No

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? No**