

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

Agency Name

Division

**Tommi Potter**

Contact

**50 Town St 4th floor Columbus OH 43218-2709**

Agency Mailing Address (Plus Zip)

**614-752-3877**

Phone

**614-995-1301**

Fax

**tommi.potter@medicaid.ohio.gov**

Email

**5160-34-01**

Rule Number

**NEW**

TYPE of rule filing

Rule Title/Tag Line

**Intensive Behavioral Services for Children with Autism.****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: **5164.02**
5. Statute(s) the rule, as filed, amplifies or implements: **5164.02, 5164.03**
6. State the reason(s) for proposing (i.e., why are you filing,) this rule:
 

Ohio Administrative Code rule 5160-34-01 entitled, "Intensive Behavioral Services (CIBS) for Children with Autism," is a new rule that is being proposed to include Medicaid coverage for specialized behavior analytic interventions such as Applied Behavior Analysis (ABA) therapy.
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 provides definitional information and CIBS eligibility criteria for Medicaid covered individuals under the age of 21 who have been diagnosed with an autism spectrum disorder (ASD). It describes the components of CIBS including the assessment, treatment plan, interventions, and family training and the requirements for each component. The rule describes the practitioners eligible to provide services under this rule, including Certified Ohio Behavior Analysts (COBA) who are certified by the Ohio Board of Psychology and providers working under the Medicaid Schools Program (MSP). It identifies services and activities prohibited from reimbursement under CIBS, service limitations, and prior authorization requirements for intervention services. Additionally, this rule describes the payment methodology for interventions provided under this rule.

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 RC 121.71 to 121.74 pursuant to RC 121.76(A)(3).

This rule incorporates one reference to the Individuals with Disability Education Act (IDEA) and Section 110 of the Rehabilitation Act of 1973. This question is not applicable to those references in this rule because such references are exempt from compliance with RC 121.71 to 121.74 pursuant to RC 121.76(B)(2).

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:

This rule has been revised since the original filing as follows:

(A)(4) added "individuals essential to the treatment..."

(B)(1)(d) new paragraph language added

(B)(2)(b) added "intervention and training"

(B)(2)(c)(ii) new paragraph language added

(B)(3) change in organization and formatting and some language change for this paragraph

(B)(4)(a)and(b) and(c) these paragraphs added "individuals essential to the treatment..."

(D)(1) removed from the original filed rule

(D)(1)(d) added rule reference to (D)(2)

(D)(1)(e) new paragraph language added

(D)(2)(a)(i) added reference to (D)(1)(f)(ii)

(D)(2)(b) new paragraph language added

(D)(2) (c) new language added and some reorganization of format; new language includes changes in language that was previously stated in (D)(3) of the original filed rule

(G) (1)and(2)and(3) new rule references added

## 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.

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This proposed rule is expected to be budget neutral and have no fiscal impact for the agency during the current biennium. According to an analysis of ODM claims data from calendar year 2013, roughly 7,000 Medicaid covered children received services under Community Psychiatric Supportive Treatment (CPST) where a primary diagnosis of autism spectrum disorder was reported. With the implementation of this new proposed rule, ODM anticipates that these expenditures will shift from the utilization of CPST services to the new services under this rule.

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:

Not applicable.

16. Does this rule have a fiscal effect on school districts, counties, townships, or municipal corporations? **Yes**

You must complete Part B of the Rule Summary and Fiscal Analysis in order to comply with Am. Sub. S.B. 33 of the 120th General Assembly.

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? **No**

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? **No**

**Rule Summary and Fiscal Analysis (Part B)**

1. Does the Proposed rule have a fiscal effect on any of the following?

(a) School Districts	(b) Counties	(c) Townships	(d) Municipal Corporations
<b>Yes</b>	<b>No</b>	<b>No</b>	<b>No</b>

2. Please provide an estimate in dollars of the cost of compliance with the proposed rule for school districts, counties, townships, or municipal corporations. If you are unable to provide an estimate in dollars, please provide a written explanation of why it is not possible to provide such an estimate.

It is not possible to provide an estimate in dollars of the cost of compliance with the proposed rule for school districts. This rule requires Medicaid School Program (MSP) providers who will be providing services under this rule to either employ or contract with practitioners eligible to render interventions under this rule. Costs will vary depending upon the school district's choice to provide services under this rule, current staffing levels, and whether they employ versus contract with eligible practitioners. Costs will also vary widely depending on the number of students enrolled in the school who are eligible for services under this rule.

3. If the proposed rule is the result of a federal requirement, does the proposed rule exceed the scope and intent of the federal requirement? **No**

4. If the proposed rule exceeds the minimum necessary federal requirement, please provide an estimate of, and justification for, the excess costs that exceed the cost of the federal requirement. In particular, please provide an estimate of the excess costs that exceed the cost of the federal requirement for (a) school districts, (b) counties, (c) townships, and (d) municipal corporations.

*Not Applicable.*

5. Please provide a comprehensive cost estimate for the proposed rule that includes the procedure and method used for calculating the cost of compliance. This comprehensive cost estimate should identify all of the major cost categories including, but not limited to, (a) personnel costs, (b) new equipment or other capital costs, (c) operating costs, and (d) any indirect central service costs.

This rule requires Medicaid School Program (MSP) providers who will be

providing services under this rule to either employ or contract with practitioners eligible to render interventions under this rule. Costs will vary depending upon the school district's choice to provide services under this rule, current staffing levels, and whether they employ versus contract with eligible practitioners. School districts who choose to provide services under this rule may incur additional personnel and administrative costs.

(a) Personnel Costs

This rule requires Medicaid School Program (MSP) providers who will be providing services under this rule to either employ or contract with practitioners eligible to render interventions under this rule. Costs will vary depending upon the school district's choice to provide services under this rule, current staffing levels, and whether they employ versus contract with eligible practitioners.

(b) New Equipment or Other Capital Costs

Not applicable.

(c) Operating Costs

Not applicable.

(d) Any Indirect Central Service Costs

Not applicable.

(e) Other Costs

This rule requires prior authorization for interventions under this rule which may increase administrative costs slightly for MSP providers as it may require staff training. The prior authorization process is conducted electronically and takes less than fifteen minutes to complete. Several resource materials are available on the ODM website to instruct providers on how to submit a prior authorization through the Medicaid Information Technology System (MITS) portal. Any administrative costs that would be incurred are expected to be minimal.

6. Please provide a written explanation of the agency's and the local government's ability to pay for the new requirements imposed by the

proposed rule.

The Ohio Department of Medicaid operates under a biennium budget and receives federal financial participation from the Centers for Medicare and Medicaid Services (CMS) for services provided to Medicaid covered individuals.

7. Please provide a statement on the proposed rule's impact on economic development.

This rule has no discernible impact on economic development.