

Rule Summary and Fiscal Analysis

Part A - General Questions

Rule Number: 5160-35-01

Rule Type: Amendment

Rule Title/Tagline: Definitions.

Agency Name: Ohio Department of Medicaid

Division:

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I. Rule Summary

1. Is this a five year rule review? Yes
 - A. What is the rule's five year review date? 4/14/2020
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? 5164.02
5. What statute(s) does the rule implement or amplify? 5162.03, 5164.02, 5164.70
6. What are the reasons for proposing the rule?

Ohio Administrative Code (OAC) rule 5160-35-01 is up for 5-year rule review in accordance with section 111.15 of the Revised Code and authorizes definitions to implement rules related to the administration of the Medicaid School Program (MSP) and is implemented in accordance with provisions of section 5164.02 of the Revised Code.

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

The purpose of this rule is to set forth definitions that pertain to the Medicaid School Program. The rule is amended to add corrections and clarification to existing definitions, and to add new definitions that support the provision of services allowable for reimbursement under the Medicaid School Program (MSP).

The following definitions were clarified and amended to read as such:

Common procedural terminology (CPT): also known as Current Procedural Terminology, is a list of descriptive terms and identifying codes for reporting medical services and procedures performed, as published by the American Medical Association (AMA).

Licensed practitioner of the healing arts: for purposes of these rules, includes the qualified practitioners delineated in rule 5160-35-05 of the Administrative Code.

Medically necessary: skilled services recommended by a qualified licensed practitioner in accordance with rules 5160-35-05 and 5160-35-06 of the Administrative Code who is acting within the scope of his or her licensure that meet the requirements in rule 5160-1-01 of the Administrative Code and meet general principles regarding reimbursement for medicaid covered services found in rule 5160-1-02 of the Administrative Code. For the purpose of the Medicaid school program, it is recognized that medically necessary services are those educational services identified in the individualized education program (IEP) that meet medicaid reimbursement requirements.

MSP provider: educational entity that meets the qualifications delineated in rule 5160-35-02 of the Administrative Code.

Corrections were made to the following definitions:

Local education agency: As defined in sections 3311.01 to 3311.04 of the Revised Code was revised to reflect the current citation of 3311.01 to 3311.05.

The following definitions were added:

Medicaid School Program Authorized Referrer: is a licensed practitioner of the healing arts who refers for services under the medicaid school component of the medicaid program as set forth in section 5162.366 of the Revised Code.

Telehealth: is the direct delivery of health care services to a patient via secure, synchronous, interactive, real-time electronic communication comprised of both audio and video elements in accordance with rule 5160-1-18 of the Administrative

Code. Practitioners must act within their scope of practice and in accordance with their licensure agreements.

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. 121.75, 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 121.76(A)(3).

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

Not Applicable

II. Fiscal Analysis

11. **Please estimate the increase / decrease in the agency's revenues or expenditures in the current biennium due to this rule.**

This will have no impact on revenues or expenditures.

\$0.00

This is a definitions rule and it is not expected that it will have an impact on revenues or expenditures.

Expenditures for services provided are incurred by local education agencies, and the local share of expenditures are covered through the local education agencies' certified public expenditures. The federal revenue gained will immediately pass through the department to the local education agencies. Therefore, the proposed rule will result in a \$0 net impact on the agency during the current biennium.

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

The estimated cost of compliance to persons affected by this rule is expected to be zero or negligible as the proposed rule does not require the department

or a provider to modify business practices. Local education agencies (LEAs) are required by the Individuals with Disabilities Education [Improvement] Act (IDEA) to provide special education and related services to children eligible and in need of the services. The IDEA establishes standards for the provision of the related services, the entities and individuals responsible for their provision, and the requirements of compliance. The proposed rules under Chapter 5160-35 of the Administrative Code allow reimbursement to the LEAs for the provision of some of the related services. This rule identifies some additional services for which the LEA may request Medicaid reimbursement.

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**
15. **If the rule imposes a regulation fee, explain how the fee directly relates to your agency's cost in regulating the individual or business.**

Not applicable.

III. Common Sense Initiative (CSI) Questions

16. **Was this rule filed with the Common Sense Initiative Office? No**
17. **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**
 - D. **Is it likely that the rule will directly reduce the revenue or increase the expenses of the lines of business of which it will apply or applies? No**