

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

Agency Name

Division

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5160-35-05

Rule Number

AMENDMENT

TYPE of rule filing

Rule Title/Tag Line

Services authorized for medicaid coverage that can be provided by medicaid school program (MSP) providers.**RULE SUMMARY**1. Is the rule being filed for five year review (FYR)? **Yes**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: **5162.03, 5162.20, 5164.02, 5164.70**

6. State the reason(s) for proposing (i.e., why are you filing,) this rule:

This rule is being proposed for amendment to comply with the requirements of five-year rule review.

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 qualifications to become and the requirements for a medicaid school program (MSP) provider.

The summary of changes include the following:

Paragraph B(1)(b)(ii) language was deleted: "general."

Paragraph B(2)(b)(ii) language was deleted: "general."

Paragraph B(3)(b)(ii) language was deleted: "direct."

Paragraph B(3)(b)(iii) new language was added: "A person holding a conditional license to practice speech-language pathology, if the eligible provider supervising the professional experience keeps on file a copy of the conditionally-licensed speech-language pathologist's plan of supervised professional experience, required by section 4753.071 of the Revised Code."

Paragraph B(4)(a) language was deleted: "Services provided for the purpose of maintenance or habilitation are not allowable."

Paragraph B(4)(b)(ii) language was deleted: "direct."

Paragraph B(7)(a) language was deleted: "multi-factored evaluation or MFE" and new language was added: "evaluation team report (ETR)."

Paragraph C(1) was revised to read: "Attending IEP and ETR meetings, and development of the IEP."

Paragraph C(6) was revised to read: "In-house training."

Paragraph C(17) The language "for the mentally retarded" was deleted.

Paragraph F(13) new language was added: "with the exception of the initial assessment/evaluation as described in paragraph (B)(7) of this rule."

Paragraph G language was deleted: "each."

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 OAC rule because such reference is exempt from compliance with RC 121.71 to 121.74 pursuant to RC 121.75(A).

This rule incorporates one or more references to the Ohio Revised Code. This question is not applicable to any incorporation by reference to the Ohio Revised Code because such reference is exempt from compliance with RC 121.71 to 121.74 pursuant to RC 121.76(A)(1).

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:

Not Applicable.

12. Five Year Review (FYR) Date: **12/8/2014**

(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

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.

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:

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 of the direct services for which the LEA may request medicaid reimbursement.

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
Yes	Yes	No	Yes

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.

Providers are required to submit claims for reimbursement, maintain documentation to substantiate those claims, and complete a cost report reviewed in accordance with agreed upon procedures. All of these activities are federally mandated costs of doing business for school-based Medicaid providers. The cost for claims submission, documentation, development of the cost report, and contracting with a Certified Public Accounting firm to conduct the agreed upon procedures review can be included in the cost report. Actual costs for these activities will vary between providers, dependent upon size of provider, expertise, procurement processes, accessibility to multiple competitive vendors, etc. But, the Medicaid reimbursement for services and administration, as a result of the provider's participation, are estimated to cover these costs of doing business.

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.

ODM (Ohio Department of Medicaid) does not expect that the proposed rule will result in any increase in new equipment or other capital costs, indirect central service costs, and other costs. Operating costs may increase as a result of this rule, and will vary between providers, dependent upon size of provider, expertise, procurement processes, accessibility to multiple competitive vendors, etc.

(a) Personnel Costs

The cost for documentation, claims submission and development of the cost report may result in an increase of personnel costs if a provider chooses to hire personnel to conduct these functions. However, such costs would be difficult to estimate, and most providers opt to contract for the activities.

(b) New Equipment or Other Capital Costs

ODM does not expect that the proposed rule will result in any increase in new equipment or other capital costs to Medicaid providers.

(c) Operating Costs

Operating costs may increase as a result of this rule, and will vary between providers, dependent upon size of provider, expertise, procurement processes, accessibility to multiple competitive vendors, etc. But, the Medicaid reimbursement for services and administration, as a result of provider participation, are estimated to more than cover any additional operating costs.

(d) Any Indirect Central Service Costs

ODM does not expect that the proposed rule will result in any increase in indirect central service costs to Medicaid providers.

(e) Other Costs

ODM does not expect that the proposed rule will result in any increase in other costs to Medicaid providers.

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 Medicaid reimbursement for services and administration, as a result of provider participation, are estimated to more than cover any additional operating costs.

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

There is no discernible impact on economic development as a result of this proposed rule.