

## Rule Summary and Fiscal Analysis

### Part A - General Questions

**Rule Number:** 5160-35-05

**Rule Type:** Amendment

**Rule Title/Tagline:** Services authorized for medicaid coverage that can be provided by medicaid school program (MSP) providers.

**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?** 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?** 5162.02, 5162.364
5. **What statute(s) does the rule implement or amplify?** 5162.366
6. **What are the reasons for proposing the rule?**

Ohio Administrative Code (OAC) rule 5160-35-05 is up for 5-year rule review in accordance with section 111.15 of the Revised Code. The rule is being amended and sets forth the services authorized for Medicaid coverage that can be provided by Medicaid School Program (MSP) providers and is implemented in accordance with provisions of section 5162.02, 5162.364, and 5162.366 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 the services authorized for Medicaid coverage that can be provided by Medicaid School Program (MSP) providers.

This rule is being amended with changes that include a reference to the provision of telehealth services in accordance with Ohio Administrative Code (OAC) 5160-1-18, and as was issued in a Medicaid Transmittal Letter Number 11-15 (LTCSSTL 11-15) dated October 19, 2011 which provided guidance to support Medicaid coverage of speech therapy through interactive audio-visual technologies, commonly referred to as telehealth, when provided by Speech-Language Pathologists through the Medicaid School Program (MSP).

Additional changes to this rule include renumbering, and institutes changes to regulatory restrictive words (e.g.: "shall," "must," "require," "shall not," "may not," and "prohibit") in accordance with section 121.95 of the Ohio Revised Code as enacted under House Bill 166.

- 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).

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

This rule incorporates one or more references to the Code of Federal Regulations (CFR). This question is not applicable to dated incorporation by reference to the CFR because such reference is exempt from compliance with RC 121.71 to 121.74 pursuant to RC 121.75(D).

This rule incorporates one or more references to the Social Security Act. This question is not applicable to those references in this rule because such reference is exempt from compliance with RC 121.71 to 121.74 pursuant to RC 121.76(B)(2).

- 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

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**