

Rule Summary and Fiscal Analysis

Part A - General Questions

Rule Number: 5160-5-01
Rule Type: Amendment
Rule Title/Tagline: Dental services.
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? 1/15/2021**
2. **Is this rule the result of recent legislation? Yes**
 - A. **If so, what is the bill number, General Assembly and Sponsor? HB 11 - 133 - Gayle Manning, Stephanie Howse**
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? 5162.02, 5164.02**
6. **What are the reasons for proposing the rule?**

To update, change policy, or clarify policy relating to the administration of the Medicaid program.
7. **Summarize the rule's content, and if this is an amended rule, also summarize the rule's changes.**

Rule 5160-5-01, "Dental services," sets forth Medicaid coverage and payment policies for dental services. It includes one appendix that lays out coverage of dental services by category.

A dated reference has been updated and reference to OAC 5160-1-18 "Telehealth" has been added in the rule body. Dental residents have been delineated as rendering providers. Regulatory restrictive words have been removed in accordance with section 121.95 of the Ohio Revised Code as enacted under House bill 166.

Changes incorporated into appendix A include the following:

â€¢ Procedure code terminology is updated based on Code on Dental Procedures and Nomenclature (CDT) changes for 2020. The descriptors for a number of preventive and partial denture services have been revised. Procedure code terminology is updated based on changes to Code on Dental Procedures and Nomenclature (CDT) for 2021. The descriptors for covered services such as exams, prophylaxes and dentures have been revised. Examples of these updates are replacing "clasps" with "retentive/clasping materialsâ€ devices", "laboratory" with "indirect", "chairside" with "direct.

â€¢ New procedure codes for service to indicate more specific anatomy being treated have been added. Two new frenectomy procedure codes (D7961 buccal/ labial, D7962 lingual) have been added to replace a single non-specific procedure code (D7960) which has been deleted.

â€¢ A new procedure code for counseling for the control and prevention of adverse oral, behavioral, and systemic health effects associated with high-risk substance use (D1321) will be covered.

â€¢ A new procedure code for prefabricated porcelain - ceramic crown â€ permanent tooth (D 2928) will be covered. This new procedure code allows coverage of these crowns for both anterior and posterior permanent teeth as an equivalent to stainless steel crowns and at the same fees.

â€¢ HB 11 requires ODM to cover two dental cleanings per year for pregnant women and several special groups such as foster children and employed individuals with disabilities regardless of their age. Cleanings and exams are overwhelmingly rendered during the same visit and coverage of two exams will be covered for these individuals. Coverage of two exams for these individuals ages 21 and older will be covered in conjunction with two cleanings per year.

â€¢ Coverage of recementation of crowns (D2920) has been added.

â€¢ Coverage of dental sealants has been updated to 1 per 5 years per first and second molar per provider per patient (D1351).

â€¢ Coverage of cone beam CT with view of both jaws (D0367) has been added.

â€¢ Coverage of interim therapeutic restorations (ITR) for primary and permanent teeth (D2940, D2941) has been added. D2940 "protective restoration" is covered for primary and permanent teeth with a limit of 1 per 180 days per tooth and a lifetime limit of 5 per tooth. D2941 "interim therapeutic restoration - primary dentition" is covered for primary teeth with a limit of 1 per 180 days per tooth and a lifetime limit of 5 per tooth. D2940 and D2941 are not covered in conjunction with each other, endodontic closure, restoration or crown on the same tooth.

â€¢ Coverage of alveoloplasty in conjunction with extractions â€” one to three teeth (D7311) has been added.

â€¢ Coverage of new COVID-19 testing procedure (D0604, D0605) has been added. These test fall under the Clinical Laboratory Improvements Act (CLIA) and require a Certificate of Waiver from CMS prior to administering the tests.

â€¢ Coverage of unspecified orthodontic procedure (D8999) has been added.

â€¢ Certain dental services will be covered through teledentistry coverage of which is specified in OAC 5160-1-18 "Telehealth." D9995 "teledentistry- synchronous; real-time encounter" is to be reported in addition to other procedures (e.g. diagnostic) delivered to the patient through teledentistry on the date of service. Teledentistry services are to be provided in accordance with Chapter 4715. of the Revised Code and Chapter 4715-23 of the Administrative Code.

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 dated references to the Code of Federal Regulations (CFR). This question is not applicable to any dated incorporation by reference to the CFR because such reference is exempt from compliance with RC 121.71 to 121.74 in accordance with RC 121.75.

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.

- 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 increase expenditures.

\$126,317

Not Applicable.

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

Completing documentation of medical necessity and the services provided takes between five and thirty minutes of provider staff time. This estimate is based on the personal experience of practicing dentists, including the ODM medical technical advisors (MTAs). The wage cost depends on who performs the task. The median statewide hourly wage for a billing clerk, according to Labor Market Information (LMI) data published by the Ohio Department of Job and Family Services, is \$16.10; for a dentist, it is \$87.21. Adding 30% for fringe benefits brings these figures to \$20.93 and \$113.37. So, generating a necessary document costs between \$1.75 (five minutes at \$20.93 per hour) and \$56.69 (thirty minutes at \$113.37 per hour). The cost of compliance lies in the time needed to complete documentation of medical necessity and the services provided. Completing documentation of medical necessity and the services provided takes between five and thirty minutes of provider staff time. This estimate is based on the personal experience of practicing dentists, including the ODM medical technical advisors (MTAs). The wage cost depends on who performs the task. The median statewide hourly wage for a billing clerk, according to Labor Market Information (LMI) data published by the Ohio Department of Job and Family Services, is \$16.10; for a dentist, it is \$87.21. Adding 30% for fringe benefits brings these figures to \$20.93 and \$113.37. So, generating a necessary document costs between \$1.75 (five minutes at \$20.93 per hour) and \$56.69 (thirty minutes at \$113.37 per hour).

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? Yes
17. Does this rule have an adverse impact on business? Yes
 - 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? Yes

This rule requires the report of information.
 - 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

IV. Regulatory Restrictions (This section only applies to agencies indicated in R.C. 121.95 (A))

18. Are you adding a new or removing an existing regulatory restriction as defined in R.C. 121.95? Yes
 - A. How many new regulatory restrictions do you propose adding? 0
 - B. How many existing regulatory restrictions do you propose removing? 4

In (E)(3)(a) "must" is replaced as it relates to documentation requirements for individuals in supervised residence in long-term care facilities.

In (E)(3)(b) "must" is replaced as it relates to documentation requirements for individuals in supervised residence in long-term care facilities.

In (E)(3)(c) "must" is replaced as it relates to documentation requirements for individuals in supervised residence in long-term care facilities.

In (E)(3)(d) "must" is replaced as it relates to documentation requirements for individuals in supervised residence in long-term care facilities.