

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

Agency Name

Division

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5160-5-01

Rule Number

NEW

TYPE of rule filing

Rule Title/Tag Line

Dental services.**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: **5162.20, 5164.02**
6. State the reason(s) for proposing (i.e., why are you filing,) this rule:

As a result of the five-year rule review process, this rule is being proposed to replace rescinded rules 5160-5-01, 5160-5-02, 5160-5-03, 5160-5-04, 5160-5-05, 5160-5-07, 5160-5-08, 5160-5-09, 5160-5-10, and 5160-5-11.
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 new rule 5160-5-01, "Dental services," sets forth Medicaid coverage and payment policies for dental services. It includes two appendices, one that lays out coverage of services by category and one that lists maximum payment amounts by procedure.

Several changes are noteworthy:

- * Procedure terminology is updated. The descriptors for a number of preventive and diagnostic services are revised. In Appendix B to the new rule, new procedure codes are listed, coverage changes are noted, and one outdated local-level procedure code (Y7255) for surgical removal of a supernumerary tooth is discontinued and replaced with the current industry standard.

- * Certain longstanding program policies are codified and clarified. The first date of service, for example, may be reported on claims for items (such as dentures) that require multiple fittings, so long as the claim is not submitted until after the individual has received the item. And in instances when it is clinically appropriate for separate restorations to be performed on the same surface of the same tooth, the rule now specifies that payment may be made for such restorations performed on mandibular teeth as well as on maxillary teeth.

- * Prior authorization requirements have been removed for certain services or procedures.

- * Set payment amounts have been established for certain services or procedures that previously required manual pricing.

- * A payment increase and a rural payment fee differential have been established, based on funds appropriated in House Bill 64 of the 131st General Assembly, for dental services rendered in a rural area. Fifty-two Ohio counties are classified as rural: Adams, Ashland, Ashtabula, Athens, Auglaize, Champaign, Clinton, Columbiana, Coshocton, Crawford, Darke, Defiance, Erie, Fayette, Gallia, Guernsey, Hancock, Hardin, Harrison, Henry, Highland, Hocking, Holmes, Huron, Jackson, Knox, Logan, Marion, Meigs, Mercer, Monroe, Morgan, Muskingum, Noble, Ottawa, Paulding, Perry, Pike, Preble, Putnam, Ross, Sandusky, Scioto, Seneca, Shelby, Tuscarawas, Van Wert, Vinton, Washington, Wayne, Williams, and Wyandot.

- * Coverage is established for periodontal scaling and root planing services and for intravenous conscious sedation/analgesia.

- * Coverage is extended to equivalent services or procedures.

- * The add-on incentive payment for general anesthesia provided in an office setting is eliminated, and the maximum payment for general anesthesia as a dental service is increased by the incentive amount.

* Form ODM 03630, "Referral evaluation criteria for comprehensive orthodontic treatment," is updated and retitled "Referral evaluation for comprehensive orthodontic treatment." It will be available on the ODM web site as a standalone document rather than as a rule appendix.

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 121.76(A)(3).

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(D).

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:

The American Dental Association has changed two dental anesthesia codes for 2016: D9220 is replaced with D9223, and D9241 is replaced with D9243. The two procedure codes and descriptions are changed in appendices A and B to this rule, but the corresponding maximum payment amounts for these services remain the

same.

This update has no additional fiscal impact or adverse business impact.

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 increase expenditures.

\$13.5 million

A payment increase and a rural payment fee differential have been established, based on funds appropriated in House Bill 64 of the 131st General Assembly, for dental services rendered in a rural area.

Because it is not possible to estimate utilization for newly covered equivalent services, their budgetary impact is assumed to be zero.

The maximum payment for general anesthesia as a dental service is being increased by the amount of the add-on incentive payment for general anesthesia provided in an office setting, which is being eliminated. The net budgetary impact is zero.

14. Identify the appropriation (by line item etc.) that authorizes each expenditure necessitated by the proposed rule:

651-525

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:

This rule imposes no license fees or fines.

The existing rules and new rule indicate that no eligible provider may receive payment without a valid Medicaid provider agreement. Both the existing rules and new rule specify that participating practitioners must hold a current license, and, as appropriate, maintain documentation that the services were provided and the medical necessity of the services. The documentation of medical necessity, and the services provided helps to substantiate the appropriateness of the services rendered to Medicaid-eligible individuals. These requirements are consistent with professional standards, and are imposed for program integrity purposes.

The adverse impact lies in the time needed to complete documentation of medical necessity and the services provided. Completing documentation of medical necessity and the services provided whether or not a prior authorization request is required 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).

16. Does this rule have a fiscal effect on school districts, counties, townships, or municipal corporations? **No**

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? **Yes**

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? **Yes**

This rule requires licensure as a dentist and enrollment as a Medicaid provider.

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.