

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

Agency Name

Division

**Tommi Potter**

Contact

**50 town st 4th floor OH 00000-0000**

Agency Mailing Address (Plus Zip)

**614-752-3877**

Phone

Fax

**tommi.potter@medicaid.ohio.gov**

Email

**5160-58-05.3**

Rule Number

**NEW**

TYPE of rule filing

Rule Title/Tag Line

**MyCare Ohio waiver: incident management system.****RULE SUMMARY**

1. Is the rule being filed consistent with the requirements of the RC 119.032 review? **No**

2. Are you proposing this rule as a result of recent legislation? **Yes**

Bill Number: **HB153**General Assembly: **129**Sponsor: **Amstutz**

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 and 5164.91**

5. Statute(s) the rule, as filed, amplifies or implements: **5164.02, 5164.91, 5166.02 and 5166.16**

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

This new rule is being adopted for the purpose of implementing the MyCare Ohio waiver program that will provide comprehensive long term care services and supports to individuals who are dually eligible for both Medicare and Medicaid services.

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:

The proposed new rule 5160-58-05.3 will establish an "incident management system" that applies to Ohio Department of Medicaid (ODM), its designees (which for the purposes of this rule include, unless otherwise stated, MyCare Ohio plans), service providers and individuals who are enrolled on the MyCare Ohio waiver. This incident management system includes responsibilities for reporting, responding to, investigating and remediating incidents involving individuals on the MyCare Ohio waiver. ODM has the authority to designate other agencies or entities to perform one or more of the incident management functions set forth in the rule. Among other things, proposed OAC rule 5160-58-05.3 will establish:

- \* That ODM and its designees (including the MyCare Ohio plans) must assure the health and welfare of individuals enrolled on the MyCare Ohio waiver. Further, ODM, its designees and providers are responsible for ensuring that individuals are protected from abuse, neglect, exploitation and other threats to their health, safety and well-being.
- \* That individuals enrolled on the MyCare Ohio waiver shall receive a handbook at the time of waiver enrollment and at reassessment that includes information about how to report abuse, neglect, exploitation and other incidents.
- \* The activities that are considered an incident and/or an alert for purposes of the MyCare Ohio waiver.
- \* Incident reporter responsibilities, including identification of those incidents that must be reported immediately.
- \* Case manager responsibilities upon learning of an incident, including ensuring the individual's health and welfare.
- \* ODM and its designee's responsibilities including incident investigation and follow-up.

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).

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. 119.032 Rule Review 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 have no impact on revenues or expenditures.

0.00

No impact on current budget. This rule is being proposed to support the

implementation of the MyCare Ohio program. While the Ohio Department of Medicaid (ODM) does not anticipate a change in expenditures as a result of this rule, the MyCare Ohio program implementation is estimated to result in an increase in expenditures of \$110 million in SFY 2014 and a decrease in expenditures of \$39.9 million in SFY 2015. The net increase in expenditures has been reported in the rule summary and fiscal analysis submitted with proposed new rule 5160-58-03 of the Administrative Code.

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:

Compliance with program requirements for providers who choose to participate may include administrative costs associated with, for example, incident reporting, investigation and remediation. When designing the capitation payments for the MyCare Ohio demonstration, the State's actuary accounted for the administrative expenses associated with waiver service coordination, copying and distributing documents and other informational materials, and incident reporting and management to members and their families. Additionally, ODM entered into a competitively bid contract with an entity for provider oversight and reimburses the contractor accordingly.

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? **No**

While this rule does not require a license, permit or other prior authorization to engage in or operate a line of business, participating managed care plans must be licensed health insurance corporations and MyCare Ohio waiver providers must have a valid Medicaid provider agreement to participate. Incident management is also performed by a competitively selected entity under contract with ODM for this purpose.

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? **Yes**

Pursuant to paragraph (N) of this rule, MyCare Ohio providers who do not comply with this rule may be subject to monetary and other sanctions that could result in their inability to participate in the Medicaid waiver program.

C.) Does this rule require specific expenditures or the report of information as a condition of compliance? **Yes**

Participating providers may incur administrative costs associated with, for example, incident reporting, investigation and remediation. When designing the capitation payments for the MyCare Ohio demonstration, the State's actuary accounted for the administrative expenses associated with waiver service coordination, copying and distributing documents and other informational materials, and incident reporting and management to members and their families. As a result of this requirement, ODM has drafted and submitted a business impact analysis for consideration.