

Rule Summary and Fiscal Analysis

Part A - General Questions

Rule Number: 5160-58-08.4

Rule Type: Amendment

Rule Title/Tagline: Appeals and grievances for "MyCare Ohio".

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? 10/14/2022
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? 5164.02, 5166.02, 5167.02
5. What statute(s) does the rule implement or amplify? 5164.02, 5166.02, 5167.02
6. Does the rule implement a federal law or rule in a manner that is more stringent or burdensome than the federal law or regulation requires? No
 - A. If so, what is the citation to the federal law or rule? Not Applicable
7. What are the reasons for proposing the rule?

This rule is being proposed to update policy relating to the administration of the Medicaid managed care program.
8. Summarize the rule's content, and if this is an amended rule, also summarize the rule's changes.

OAC Rule 5160-58-08.4 sets forth MyCare Ohio plan (MCOP) appeal and grievance rights. Several changes to this rule are being made to align rule 5160-58-08.4 with updates to federal regulations in the Code of Federal Regulations (CFR) and updates to the Ohio Department of Medicaid's (ODM) applicable agency policy and procedure. Specifically, date references to CFR citations are being updated. Date references and names of ODM internal forms are also being updated within the rule. The time to request a state hearing is being shortened from one hundred twenty days to ninety days from the date of adverse appeal resolution in order to align rule 5160-58-08.4 with recent changes to 5160-26-08.4 of the Ohio Administrative Code.

- 9. Does the rule incorporate material by reference? Yes**
- 10. 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 (OAC). 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.

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 dated references to an ODM form or forms. Each cited ODM form is dated and is generally available to persons affected by this rule via the "Medicaid Forms" link on the Ohio Department of Medicaid web site (<http://medicaid.ohio.gov/>) in accordance with RC 121.75.

- 11. 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

- 12. 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

No impact on current biennium budget.

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

Rule 5160-58-08.4 requires MCOPs to submit information to ODM and the Bureau of State Hearings for members who request an appeal through the MCOP or a state fair hearing. The changes to the rule do not result in any new costs of compliance. MyCare Ohio plans (MCOPs) are paid per member per month and receive funds to cover required services. ODM must pay MCPs rates that are actuarially sound, as determined by an outside actuary in accordance with 42 CFR 438.6(b) and CMS's 2022-2023 Managed Care Rate Setting Consultation Guide. All rates and actuarial methods can be found on the ODM website in Appendix E of the MyCare Ohio Plan provider agreement.

14. Does the rule increase local government costs? (If yes, you must complete an RSFA Part B). No

15. Does the rule regulate environmental protection? (If yes, you must complete an RSFA Part C). No

16. 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

17. Was this rule filed with the Common Sense Initiative Office? Yes

18. 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 contains requirements for the MCOPs to maintain records and other documentation, to provide notice to members in specified timeframes, and to submit reports to ODM. These requirements are federally mandated.

-MCOPs must provide a written notice to members of an adverse benefit determination;

-MCOPs must acknowledge receipt of an appeal or grievance with the member or authorized representative;

-MCOPs must provide the member or authorized representative written notice of the resolution;

-MCOPs must maintain records of all appeals and grievances and submit this information to ODM as directed.

- 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 Restriction Requirements under S.B. 9. Note: This section only applies to agencies described in R.C. 121.95(A).

19. **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 to this rule?** 0

- B. **How many existing regulatory restrictions do you propose removing from this rule?** 1

5160-58-08.4(A)(4): removing the word "must."

- C. **If you are not removing existing regulatory restrictions from this rule, please list the rule number(s) from which you are removing restrictions.**

- D. **Please justify the adoption of the new regulatory restriction(s).**

Not Applicable