

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

Agency Name

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Division

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**5160-8-05**

Rule Number

**NEW**

TYPE of rule filing

Rule Title/Tag Line

**Behavioral health services-other licensed professionals.****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: **5164.02, 5164.03**
6. State the reason(s) for proposing (i.e., why are you filing,) this rule:

This rule is being rescinded and newly filed to incorporate changes made to for the community behavioral health agencies as part of the Behavioral Health Redesign initiative and to align policy across different Medicaid providers. The proposed rule implements changes made in the Department's behavioral health redesign by accounting for services provided by employees of community behavioral health centers in the payment section of the rule.

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 rule describes the eligible practitioners, service coverage and reimbursement for other licensed practitioners performing behavioral health services. This includes supervision, documentation and limitations information.

The proposed rescind and new rule adds school psychologists licensed by the state board of psychology as eligible Medicaid providers. They will be able to submit claims and receive payment for the Medicaid-covered services they provide.

The proposed rescind and new rule clarifies the level of supervision (general vs direct) that is required for each type of practitioner. This was done in collaboration with the Department's behavioral health redesign efforts to ensure standardization of supervision requirements across behavioral health providers.

In this clarification, doctoral psychology trainees and interns will now require general supervision as directed by the board of psychology. In response to board guidance, the requirement for an independent supervisor to see the patient every visit has been removed in the rescinded and new rule.

This rule also allows the supervised trainees under direct supervision to be paid at the supervisor rate.

The proposed rule implements Ohio House Bill 483 that requires behavioral health services billed in nursing facilities to be billed by the practitioner rendering the service and not included in the nursing facility per diem calculations.

The proposed rule implements changes made in the Department's behavioral health redesign by accounting for services provided by employees of community behavioral health centers in the payment section of the rule.

The proposed rule removes place of service restrictions for psychotherapy and permits services to be provided in a school setting. The proposed rule lifts the benefit limit on therapeutic visits and expands the limits for psychological testing and diagnostic evaluation by applying the limit on the billing provider rather than the recipient. This rule adds a limitation on the service known as screening, brief intervention and referral to treatment (SBIRT) for substance abuse, as a provider should screen for substance use disorder once, then refer the patient to substance use disorder treatment if needed.

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 response left blank because filer specified online that the rule does not incorporate a text or other material by reference.*

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:

*This response left blank because filer specified online that the rule does not incorporate a text or other material by reference.*

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 following changes have been made in response to stakeholder feedback and/or to provide language clarification:

(F)(2) removed "updated at a minimum on a weekly basis after the provision of the service" and replaced with "shall be completed at a minimum on a per provision basis, or on a daily or weekly basis:" Also added "progress note" before "documentation."

(F)(2)(a) added "date, time of day," and "if documenting weekly services"

(F)(2)(b) added "changes in"

(F)(2)(c) and (F)(2)(e) added "when applicable" to clarify what pieces of documentation have to be recorded when performed.

(F)(2)(f) removed "that".

(G) removed "appendix DD to rule 5160-1-60" and added "the appendix to rule 5160-27-03" as information contained in the first appendix was moved to the latter one.

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.

\$53,400,000

This new rule implements a part of the Behavioral Health Redesign that is a joint project of the Ohio Department of Medicaid (ODM), Ohio Department of Mental Health and Addiction Services, and the Ohio Office of Health Transformation. The expenditure increase stated here is for the entire project and not limited to the impact of this rule. The figure stated is that above budget neutrality and reflects new services that will be reimbursed by ODM for the first time and well as reimbursement rate adjustments.

The amount stated here is for SFY 18 and is in addition to the estimated \$ 1.1 billion spent on behavioral health services in SFY 16.

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:

The specific estimated cost of compliance with this rule is minimal as the only changes that require compliance are documentation standards and assurance of appropriate supervision which is already required and in practice in accordance with state licensing boards.

Behavioral Health Redesign, as implemented by the proposed rule package, will affect approximately 625 provider agencies of mental health and/or substance use disorder treatment in Ohio who are Medicaid providers. Future Medicaid mental health and/or substance use disorder treatment providers will also be affected.

Areas of impact experienced by provider agencies could include: information technology and billing system updates, staff training and organizational transformation, and abiding by third party liability requirements and federally required program integrity provisions.

Quantifying the cost is difficult because of the significant variance of business design, number of service locations, agency workforce, client caseload, and business acumen among Ohio's 625 Medicaid enrolled providers of behavioral health services.

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 prior authorization to exceed set limitations.

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 documentation of services including a treatment plan and progress notes.