

**FEDERAL MEDICAID NOTICE AND PUBLIC HEARING NOTICE
OHIO DEPARTMENT OF MEDICAID**

DATE: November 18, 2013

TIME: 10 a.m.

LOCATION: Lobby Hearing Room, Rhodes State Office Tower
30 East Broad Street, Columbus, OH 43215

Pursuant to section 5164.02 and Chapter 119. of the Ohio Revised Code and 42 CFR 447.205, the director of the Ohio Department of Medicaid gives notice of the department's intent to consider the amendment, rescission, or adoption of the rules identified below and to hold a public hearing on these rules. The public hearing will be held at the date, time, and location listed at the top of this notice. Both written and oral testimony will be accepted at the public hearing, and written comments submitted or postmarked no later than the date of the public hearing will be treated as testimony.

The provision of skilled therapy services (physical therapy, occupational therapy, speech-language pathology services, and audiology services) in non-institutional settings is currently addressed in eight rules found in three separate chapters of the Ohio Administrative Code:

Rule 5160-4-26, "Covered physical medicine and rehabilitation services"

Rule 5160-8-01, "Eligible providers of limited practitioner services"

Rule 5160-8-02, "Covered physical therapy services and limitations"

Rule 5160-8-03, "Covered occupational therapy services and limitations"

Rule 5160-34-01, "Physical therapy, occupational therapy and speech-language pathology/audiology services: general provisions"

Rule 5160-34-01.1, "Physical therapy, occupational therapy and speech-language pathology/audiology services: definitions"

Rule 5160-34-01.2, "Physical therapy, occupational therapy and speech-language pathology/audiology services: coverage and limitations"

Rule 5160-34-01.3, "Physical therapy, occupational therapy and speech-language pathology/audiology services: reimbursement"

All eight of these rules are being rescinded and replaced by five new rules:

Rule 5160-8-30, "Skilled therapy: scope and definitions"

Rule 5160-8-31, "Skilled therapy: providers"

Rule 5160-8-32, "Skilled therapy: coverage"

Rule 5160-8-33, "Skilled therapy: documentation of services"

Rule 5160-8-34, "Skilled therapy: payment"

A new rule is being adopted to address physical medicine and rehabilitation services furnished by a physician or by a licensed individual under the supervision of a physician:

Rule 5160-4-26, "Physical medicine and rehabilitation services"

The current rule governing psychology services, which includes references to a rescinded rule, is being rescinded:

Rule 5160-8-05, "Covered psychology services and limitations"

It is being replaced by a new rule of the same number:

Rule 5160-8-05, "Psychology services provided by licensed psychologists"

All changes take effect for dates of service January 1, 2014, or after.

Several aspects of the consolidation of the skilled therapy rules are worth noting:

- The content of the rules has been reorganized and streamlined. As a result, there is no longer a need for Chapter 5160-34 of the Ohio Administrative Code.
- Unnecessary definitions have been removed.
- Parts of the current rules that duplicate provisions found elsewhere in the Ohio Administrative Code have been deleted.
- Speech-language pathologists and audiologists are now recognized as eligible providers who can submit claims to Medicaid on their own behalf. If they wish to do so, they may continue to receive payment for services that are reported on claims submitted through other providers, as the current rules require; the revised rules will give them an option they did not have before of becoming independent providers.
- The Medicaid requirement that therapy services be provided only by prescription is being eliminated, and all references to a "Medicaid-authorized prescriber" are being removed. Providers will continue to be bound by any licensing requirements that concern prescribing or prescriptions, but Medicaid will no longer superimpose additional prescription requirements not found in licensure law.
- For ease and consistency of administration, a defined benefit year replaces the rolling calendar year as the period within which service limits apply. The limit of thirty dates of service for any combination of physical therapy and occupational therapy is changed to thirty dates of service for each type of therapy.
- A payment-reduction provision is added that applies when more than one skilled therapy service of the same type is rendered by a non-institutional provider to an individual patient on the same date; under this provision, payment is made for the primary procedure at 100% and for each additional procedure at 50%.

It is estimated that the new payment-reduction provision in the skilled therapy rules will result in a total decrease in annual aggregate Medicaid expenditures of approximately \$1 million.

There are several significant revisions in the new psychology services rule, 5160-8-05:

- Unnecessary references to past dates of service have been removed.
- The specification of procedure codes and modifiers has been discontinued. Descriptions of service are sufficient to indicate what is covered under Medicaid. (Descriptions are also not likely to change very much, even if code sets are revamped.) Providers are simply directed to report appropriate procedure codes and modifiers on claims, instructions for which are readily available from the department and other sources.
- Under the current rule, a doctoral-level clinical psychology intern may provide a psychology service if the licensed psychologist responsible for an individual's care furnishes direct supervision of the intern and has face-to-face contact with the individual during the visit (a phrase that has been interpreted to mean "each visit"). Psychologists have indicated that these supervision and contact requirements are overly stringent and exceed the relevant provisions set forth in the Ohio Revised Code. The new rule calls for general supervision, and face-to-face contact is required during the initial visit and no less often than once per quarter (or during each visit if visits are scheduled more than three months apart).

It is estimated that the changes to this rule will have no effect on annual aggregate Medicaid expenditures.

New rule 5160-4-26 maintains Medicaid coverage and payment policy for physical medicine and rehabilitation services, and it includes a reference to rules governing physical therapy, occupational therapy, speech-language pathology, and audiology.

The adoption of this rule will have no effect on annual aggregate Medicaid expenditures.

Any person affected by these rules may examine them and obtain a copy, without charge, at the following locations:

The Ohio Department of Job and Family Services, Office of Legal and Acquisition Services,
30 East Broad Street, 31st Floor, Columbus, Ohio,
Any county department of job and family services, or
On the internet at <http://www.registerofohio.state.oh.us/>.

Requests for a copy of the rule or comments on the rule should be submitted in any of the following ways:

By mail to the Ohio Department of Medicaid, c/o Ohio Department of Job and Family Services, Office of Legal and Acquisition Services, 30 East Broad Street, 31st Floor, Columbus, OH 43215-3414;
By fax to (614) 752-8298; or
By e-mail to rules@jfs.ohio.gov.

Comments received may be reviewed at the Ohio Department of Job and Family Services, Office of Legal and Acquisition Services, 30 East Broad Street, 31st Floor, Columbus, Ohio.