

**PUBLIC HEARING NOTICE
OHIO DEPARTMENT OF MEDICAID**

DATE: May 15, 2017
TIME: 11:00 a.m.
LOCATION: Lazarus Building, 50 West Town Street, Room A501
Columbus, Ohio 43215

Pursuant to Chapter 119 and section 5167.02 of the Revised Code, the director of the Ohio Department of Medicaid (ODM) gives notice of the Department's intent to amend, or rescind and file as new of the rules identified below and of a public hearing thereon.

Rule 5160-26-01, entitled “Managed health care programs: definitions,” sets forth the definitions used throughout Chapter 5160-26 of the Administrative Code regarding the Medicaid managed care program. It is being proposed for rescission and will be made new to update policy related to the administration of the Medicaid managed care program. A definition of “Managed Care” is being added. Acronyms are removed to streamline the rule. Definitions are being removed and updated to reflect changes throughout Chapter 5160-26 of the Ohio Administrative Code (OAC). OAC rule references are being updated to reflect current Agency 5160 rules. United States Code (U.S.C.) and Code of Federal Regulations (C.F.R.) references are also updated. General edits are being made for grammar, alphabetizing and formatting.

Rule 5160-26-02, entitled “Managed health care programs: eligibility and enrollment,” sets forth the eligibility criteria for individuals who are then enrolled in the managed care program and the enrollment process. It is being proposed for amendment to update policy related to the administration of the Medicaid managed care program. In Paragraph (C)(1)(e), the “and” is being replaced with “or” to clarify when the MCP is responsible for member coverage. Gender identity is being added as a prohibited basis for discrimination in paragraph (C)(1)(a) in order to comply with 42 C.F.R. 438.3(d). OAC, U.S.C. and C.F.R. references are updated. General edits are being made to terminology, grammar and formatting.

Rule 5160-26-02.1, entitled “Managed health care programs: termination of enrollment,” sets forth the criteria for termination of enrollment and the process used for terminating a Medicaid recipient from enrollment in an MCP. It is being proposed for amendment to update policy related to the administration of the Medicaid managed care program. New language is being added to paragraph (D)(1)(c) allowing a child in foster care or receiving foster care maintenance to enroll in a different managed care plan if the change is sought by the local public children’s service agency or juvenile court. In paragraph (E)(3), ODM clarifies that when a termination of enrollment is initiated by the MCP, ODM will provide a “written” approval of the termination request. Gender identity is being added as a prohibited basis for discrimination in paragraphs (D)(3)(b) and (E)(2) in order to comply with 42 C.F.R. 438.3(d). U.S.C. and C.F.R. references are updated. ODM is updating terms

to reflect current OAC terminology, and general edits are being made for grammar and formatting.

Rule 5160-26-03.1, entitled “Managed health care programs: care coordination,” sets forth the requirements for MCPs related to members’ primary care providers (PCPs) and utilization management. It is being proposed for rescission and will be made new to update policy related to the administration of the Medicaid managed care program. The rule title is being changed to “Managed health care programs: primary care and utilization management,” to reflect the proposed changes. Paragraph (A)(3) of the rescission rule is being removed as it is duplicative to language in OAC rule 5160-26-03. Paragraph (A)(6) of the rescission rule is being removed as it is described in Appendix C of the Medicaid managed care and MyCare Ohio provider agreements. Paragraph (A)(8) of the rescission rule is being removed to streamline the rule because the same care management language is located in Appendix K of the provider agreements. Under primary care provider (PCP) care coordination responsibilities, a requirement is being added for PCPs to provide medically necessary services in line with OAC rule 5160-1-01. ODM is updating terms in the new rule to reflect current OAC terminology, and general edits are being made for grammar and formatting.

Rule 5160-26-06, entitled “Managed health care programs: program integrity – fraud and abuse, audits, reporting, and record retention,” sets forth the MCP requirements related to fraud and abuse prevention, program integrity, audits, reporting and record retention. It is being proposed for amendment to update policy related to the administration of the Medicaid managed care program and to comply with five year rule review requirements. In paragraph (A)(1)(j) language is being updated to correspond with the suspected fraud reporting requirements outlined in the Medicaid managed care and MyCare Ohio provider agreements. In paragraph (F) language is being added requiring plans to retain records for ten years beginning January 1, 2018, in accordance with 42 C.F.R. 438.3. Other changes include updates to C.F.R. references, current OAC terminology and general edits for grammar and formatting.

Rule 5160-26-09.1, entitled “Managed health care programs: third party liability and recovery,” sets forth the MCPs’ rights to recover third party payer liability in certain instances and establishes the requirement for MCPs to provide coordination of benefits when a Medicaid beneficiary has third party resources. It is being proposed for amendment to update policy related to the administration of the Medicaid managed care program and to comply with five year rule review requirements. Language is being added in paragraph (C) allowing ODM to identify, pursue and retain any recovery of third party resources assigned to the MCP when not collected by the MCP one year after the date of claim payment. Language is being removed in paragraph (B) related to “fraud and abuse recovery” and existing language is reformatted. The language proposed for removal is thoroughly covered in the managed care provider agreements including more specific requirements. Changes include updates to U.S.C. and C.F.R. references.

A copy of each of the proposed rules is available at the address listed below and without charge, to any person affected by the rules and at the county department of job and family services. The proposed rules are also available on the internet at <http://www.registerofohio.state.oh.us/>. A public hearing on the proposed rules will be held at the date, time and location listed at the top of this notice. Written and/or oral testimony will be taken at the public hearing. Additionally, written comments submitted or postmarked no later than the date of the public hearing will be treated as testimony.

Requests for a copy of the proposed rules or comments on the rules should be submitted by mail to the Ohio Department of Medicaid, Office of Legal Counsel, 50 West Town Street, 4th Floor, Columbus, Ohio 43218, by fax at (614) 995-1301, or by e-mail at rules@medicaid.ohio.gov. Comments received may be reviewed upon request.