

Rule Summary and Fiscal Analysis (Part A)**Department of Job and Family Services**

Agency Name

Division of Medical Assistance

Division

Mike Lynch

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5101:3-48-01

Rule Number

AMENDMENT

TYPE of rule filing

Rule Title/Tag Line

**Medicaid coverage of targeted case management services
provided to individuals with mental retardation and
developmental disabilities.****RULE SUMMARY**

1. Is the rule being filed consistent with the requirements of the RC 119.032 review? **Yes**

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: **5111.01, 5111.02**

5. Statute(s) the rule, as filed, amplifies or implements: **5111.01, 5111.02, 5111.021**

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

To update and clarify policies and payment rates pertaining to the targeted case management (TCM) service. The purpose for filing this amended rule, is to address federal Centers for Medicare and Medicaid Services (CMS) concerns related to the payment rate for TCM services and to incorporate policy clarifications as included in the federal Deficit Reduction Act, signed into law February 8, 2006.

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 specifies the conditions for Medicaid payment of TCM services. This rule is being amended to revised to incorporate policy clarifications as included in the federal Deficit Reduction Act, to amend the payment rate and to include reimbursement requirements as approved by CMS in the State Plan Amendment.

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:

The rule incorporates by reference 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 rule OAC because such reference is exempt from compliance with ORC 121.71 to 121.74 in accordance with ORC 121.76(A)(3).

The rule incorporates by reference 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 ORC 121.71 to 121.74 in accordance with ORC 121.75(D).

This rule incorporates one or more references to a federal act or acts. This question is not applicable to any dated incorporation by reference to a federal act because such reference is exempt from compliance with RC 121.71 to 121.74 in accordance with ORC 121.75(C).

This rule incorporates one or more references to OMB Circular A-87, which are generally accepted industry standards. Each reference is dated and is generally available to persons affected by this rule via the internet, in accordance with RC 121.75(E).

This rule incorporates one or more references to the Ohio Revised Code. This question is not applicable to any incorporation by reference to the Ohio Revised Code because such reference is exempt from compliance with RC 121.71 to 121.74 pursuant to RC 121.76(A)(1).

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:

N/A

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:

Added a new paragraph (B)(5) which defines "medically necessary" for the TCM service.

Amended paragraph (G)(12) to state "...such claims are considered medically necessary as defined in paragraph (B)(5) of this rule." Removed the language "...such claims is considered medically necessary for the individual in that such service(s) is necessary due to one or more of the criteria defined as equating to an emergency situation pursuant to section 5126.042 of the Revised Code."

Amended paragraph (G)(13) to state "...service(s) associated with such claims is considered medically necessary as defined in paragraph (B)(5) of this rule." Removed the language "...service(s) associated with such claims is considered medically necessary for an individual in that such service(s) is necessary due to one or more of the criteria defined as equating to an emergency situation pursuant to section 5126.042 of the Revised Code."

Amended paragraph (I)(2) to state "...to determine if the service(s) associated with such claims is considered medically necessary as defined in paragraph (B)(5) of this rule." Removed the language "...to determine if the service(s) associated with such claims is considered medically necessary for an individual in that such service(s) is necessary due to one or more of the criteria defined as equating to an emergency situation pursuant to section 5126.042 of the Revised Code."

Amended paragraph (I)(4) to state "In the event a fiscal review reveals that an overpayment has been made, and/or there is a disallowance of Medicaid payments, the amount of the overpayment and/or disallowance shall be recovered from the CBMRDD."

Paragraph (I)(5) was deleted.

12. 119.032 Rule Review Date: 7/12/2006

(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 decrease expenditures.

487,500

The effectuation of this rule, along with the preceding emergency rule effective July 5, 2006, is anticipated to decrease overall expenditures for TCM during state fiscal year (SFY) 2007 by approximately \$487,500.

14. Identify the appropriation (by line item etc.) that authorizes each expenditure necessitated by the proposed rule:

600-525

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:

After several discussions with CMS our state plan amendment was approved at a Target Case Management payment rate of \$10.18 which is a decrease to providers from the initial mid-point rate \$17.53. This rule also may cause an increase in administrative costs since it is now required that providers and county boards of mental retardation and developmental disabilities (CBMRDD) will now need to track service provision and utilization by Service and Support Administrator (SSA). At this time an exact estimate cannot be quantified for this new requirement because it may vary from each provider and county board depending on current business practice.

16. Does this rule have a fiscal effect on school districts, counties, townships, or

municipal corporations? **Yes**

You must complete Part B of the Rule Summary and Fiscal Analysis in order to comply with Am. Sub. S.B. 33 of the 120th General Assembly.

17. Does this rule deal with environmental protection or contain a component dealing with environmental protection as defined in R. C. 121.39? **No**

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Rule Number: 5101:3-48-01

Rule Summary and Fiscal Analysis (Part B)

1. Does the Proposed rule have a fiscal effect on any of the following?

(a) School Districts	(b) Counties	(c) Townships	(d) Municipal Corporations
No	Yes	No	No

2. Please provide an estimate in dollars of the cost of compliance with the proposed rule for school districts, counties, townships, or municipal corporations. If you are unable to provide an estimate in dollars, please provide a written explanation of why it is not possible to provide such an estimate.

Based on claims data, federal financial participation (FFP) received as reimbursement is expected to decrease by approximately \$293,000 over the remainder of the biennium (SFY 2007).

3. If the proposed rule is the result of a federal requirement, does the proposed rule exceed the scope and intent of the federal requirement? **No**

4. If the proposed rule exceeds the minimum necessary federal requirement, please provide an estimate of, and justification for, the excess costs that exceed the cost of the federal requirement. In particular, please provide an estimate of the excess costs that exceed the cost of the federal requirement for (a) school districts, (b) counties, (c) townships, and (d) municipal corporations.

Not Applicable.

5. Please provide a comprehensive cost estimate for the proposed rule that includes the procedure and method used for calculating the cost of compliance. This comprehensive cost estimate should identify all of the major cost categories including, but not limited to, (a) personnel costs, (b) new equipment or other capital costs, (c) operating costs, and (d) any indirect central service costs.

As of July 5, 2006 the reimbursement rate for TCM was reduced to \$10.18 per unit based on negotiations with CMS. This rate was effectuated through an emergency rule that was effective on the above date. The current proposed permanent rule contains the same rate.

(a) Personnel Costs

Any specific impact to costs due the reduced FFP could vary by CBMRDD cannot be estimated at this time.

(b) New Equipment or Other Capital Costs

Any specific impact to costs due the reduced FFP could vary by CBMRDD cannot be estimated at this time.

(c) Operating Costs

Any specific impact to costs due the reduced FFP could vary by CBMRDD cannot be estimated at this time.

(d) Any Indirect Central Service Costs

Any specific impact to costs due the reduced FFP could vary by CBMRDD cannot be estimated at this time.

(e) Other Costs

Any specific impact to costs due the reduced FFP could vary by CBMRDD cannot be estimated at this time.

6. Please provide a written explanation of the agency's and the local government's ability to pay for the new requirements imposed by the proposed rule.

The current responsibility for the non-federal share lies with the CBMRDD or ODMRDD based on the Ohio Revised Code, this will not change. Any new requirements contained in the rule are included based on federal law or the approved state plan amendment. Providers need to comply with the requirements in order to receive Medicaid reimbursement for TCM services.

7. Please provide a statement on the proposed rule's impact on economic development.

It is anticipated that proposed rule will not have an impact on economic development.