

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

NEW

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? **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: **5111.01, 5111.02**

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

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

The purpose for filing this rule, 5101:3-48-01, is to delineate the provider qualification requirements, the recipient eligibility requirements, and the Medicaid covered activities for targeted case management services provided to individuals with mental retardation and/or developmental disabilities.

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:

The rule delineates provider qualification requirements, recipient eligibility requirements, covered activities, and reimbursement requirements for targeted case management services.

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 CMS Publication 15-1 as well as OMB Circulars A-87 and A-133. The publications are generally available to the public through the internet. The website links to the references are being made available in the text of the rule for CMS Publication 15-1 and OMB Circulars A-87 and A-133.

This 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 another rule or rules of the Ohio Administrative Code. This question is not applicable to any incorporation by reference to another OAC rule because such reference is exempt from compliance with ORC 121.71 to 121.74 pursuant to ORC 121.76(A)(3).

This rule incorporates by reference one or more references to the Ohio Revised Code. This question is not applicable to any incorporation by reference to the ORC because such reference is exempt from compliance with ORC 121.71 to 121.74 pursuant to ORC 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:

The publications are generally available to the public through the internet.

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:

The following changes have been made to this rule:

Revised paragraph (C)(1)(a) to read: "Medicaid eligible individuals, regardless of age, who are enrolled on HCBS waivers administered by the ODMRDD, and"

Revised paragraph (C)(1)(b) to read: "All other medicaid eligible individuals, age three or above, who are determined to have mental retardation or other developmental disability according to Section 5126.01 of the Revised Code."

Revised paragraph (D)(1)(a)(i) to read: "Activities performed to make arrangements to obtain from therapists and appropriately qualified persons the initial and on-going assessments of a medicaid eligible individual's need for any medical, educational, social, and other services."

Revised paragraph (D)(1)(a)(ii) to read: "Eligibility assessment activities that provide the basis for the recommendation of an individual's need for HCBS waiver services administered by ODMRDD."

Revised paragraph (D)(1)(a)(iii) to read: "Activities related to recommending an individual's initial and on-going need for services and associated costs for those individuals eligible for HCBS waiver services administered by ODMRDD."

Revised paragraph (D)(1)(d)(iii) to read: "Reviewing the individual trends and patterns resulting from reports of investigations of unusual incidents and MUIs and integrating prevention plans into amendments of an ISP."

Revised paragraph (D)(1)(d)(iv) to read: "Ensuring that services are provided in accordance with the ISP and ISP services are effectively coordinated through communication with service providers."

Added a new paragraph, (D)(1)(d)(v) which reads: "Activities and contacts that are necessary to ensure that guardians and individuals receive appropriate notification and communication related to unusual incidents and MUIs."

Added the text "to assist an individual in preparing for" to paragraph (D)(1)(e)(i).

Added a new paragraph, (D)(2)(g) which reads: "Conducting quality assurance reviews for an individual for whom the service and support administrator serves as the single point of accountability."

Added a new paragraph, (D)(2)(k) which reads: "Habilitation management as defined in rule 5123:2-1-11 of the Administrative Code."

Added a new paragraph, (D)(2)(I) which reads: "Eligibility determinations for CBMRDD services."

Added the text "subject to year-end cost settlement" to the end of paragraph (G)(1).

Added the text "allowable and allocable" in the second line of paragraph (H)(3).

Added the sentence "Reconciliation shall incorporate minimum efficiency units into the calculation of actual cost" to the end of paragraph (H)(3).

Added the text "or other cognizant agencies" to the second line in paragraph (H)(5).

Added the text "and service units" to the first line and the text "and allocable" to the second line of paragraph (H)(6)(a).

Added the text "peer group norms" to the fifth line of paragraph (I)(1).

Added a new paragraph, (I)(2), which reads: "ODMRDD or their designee shall annually perform field audits. The audits will be based on an assessment of relative risks and random selection. The performance of such audits will begin one full year after the end of each reporting period (calendar year)."

Added the sentence "ODJFS will also assure that all required desk reviews, audits, and settlements are correctly performed in a timely manner" to the end of paragraph (I)(4).

Amended the Appendix to include the ODMRDD code and to include the revised rate(s) and cost of doing business(CODB)factors.

12. 119.032 Rule Review 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 have no impact on revenues or expenditures.

\$0

The effectuation of this rule is not anticipated to have a fiscal impact for the agency during the biennium as ODJFS only passes through to ODMRDD the federal financial participation (FFP) share of reimbursement for expenditures.

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

600-655

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 proposed adoption of this rule for targeted case management (TCM) is being filed in conjunction with the proposed rescission of rule 5101:3-37-19. The rescission of 5101:3-37-19 would discontinue coverage of service coordination as a discrete service billable under Medicaid. Pursuant to fiscal data prepared by ODMRDD, it is estimated that the rescission of the aforementioned rule will decrease the amount of revenue private providers receive by approximately 8 million, approximately 4.9 million of which is FFP, during the 2006-2007 biennium.

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
Yes	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.

It is estimated that the adoption of this rule, and the concurrent rescission to rule 5101:3-37-19 will have the following impact on providers, based on fiscal data prepared by the Ohio Department of Mental Retardation and Developmental Disabilities (ODMRDD):

It is estimated that the rescission of the aforementioned rule will decrease the amount of federal financial participation (FFP) that public school districts/providers receive by approximately 4 million during the 2006-2007 biennium.

It is estimated that the rescission of the aforementioned rule will decrease the amount of FFP that children's service boards receive by approximately 12 thousand dollars during the 2006-2007 biennium.

It is estimated that the rescission of the aforementioned rule will decrease the amount of FFP that county boards of mental retardation and developmental disabilities (CBMRDD) receive for service coordination by approximately 8 million during the 2006-2007 biennium. However, some of these activities may be billed as targeted case management under this proposed rule, 5101:3-48-01, thereby decreasing the overall negative FFP impact to the CBMRDD.

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.

Based on ODMRDD claim estimates, overall reimbursement for service coordination will decrease as outlined in the fiscal analysis. However, costs for case management may not significantly increase or decrease as this service is proposed to continue for individuals with MR/DD with the filing of 5101:3-48-01.

(a) Personnel Costs

Costs are not anticipated to significantly increase or decrease.

(b) New Equipment or Other Capital Costs

Costs are not anticipated to significantly increase or decrease.

(c) Operating Costs

Costs are not anticipated to significantly increase or decrease.

(d) Any Indirect Central Service Costs

Costs are not anticipated to significantly increase or decrease.

(e) Other Costs

Match liability: The non-federal share liability for services provided by private providers may decrease since private providers would no longer be able to bill for the discrete service coordination service. The non-federal share for services provided by private providers is currently paid by the Ohio Department of MRDD.

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 for case management services provided by CBMRDD lies with the CBMRDD; this will not change. School districts are responsible for covering Individuals with Disabilities Education Act (IDEA) services without cost to the family and regardless of whether the service(s) can be billed to Medicaid; this will not change.

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

It is anticipated that the proposal of this rule will not have an impact on economic development.