

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

Agency Name

**Tommi Potter**

Division

Contact

**50 West Town Street Suite 400 Columbus OH  
43218-2709****614-752-3877****614-995-1301**

Agency Mailing Address (Plus Zip)

Phone

Fax

**Tommi.Potter@medicaid.ohio.gov**

Email

**5160-1-18**

Rule Number

**RESCISSION**

TYPE of rule filing

Rule Title/Tag Line

**Telemedicine.****RULE SUMMARY**

1. Is the rule being filed for five year review (FYR)? **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: **5164.95, 5164.02**
5. Statute(s) the rule, as filed, amplifies or implements: **5164.02, 5164.95**
6. State the reason(s) for proposing (i.e., why are you filing,) this rule:

Rule 5160-1-18, entitled "Telemedicine" is being proposed for rescission to be replaced by a rule of the same number and a different name due the Ohio Department of Medicaid (ODM) significantly expanding the existing program which resulted in more than fifty percent of the rule language changing.

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 defines telemedicine as the direct delivery of services to a Medicaid covered individual via synchronous interactive, real-time electronic communication comprised of both audio and video elements. This rule provides definitional information related

to originating site, distant site, and requirements surrounding both. It lists five places as a valid originating site and defines the requirements and responsibilities of the originating site regarding documentation and consent. It identifies practitioners eligible to provide services via telemedicine and requirements of the distant site provider.

This rule identifies the type of health care services that may be delivered using telemedicine by eligible practitioners. It sets forth a requirement in which an originating site located within a five-mile radius from the distant site will not be eligible for payment under this rule. Regarding claim payment, this rule identifies the type of claim that may or may not be submitted for services delivered using telemedicine. It requires all appropriate codes and modifiers to be reported on the claim for payment.

This rule indicates that if an originating site provider renders a separate service to the patient on the same date as the health care service delivered using telemedicine, the provider may submit a claim for either the evaluation and management service or telemedicine originating fee. This rule prohibits both a telemedicine originating fee and payment for an evaluation and management service from being paid for on the same day. This rule references the Ohio Administrative Code that sets forth payment for services delivered through use of telemedicine.

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 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 Ohio Administrative Code rule because such reference is exempt from compliance with RC 121.71 to 121.74 pursuant to RC 121.76(A)(3).

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:

Not applicable.

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:

*Not Applicable.*

12. Five Year Review (FYR) Date: **4/19/2019**

(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.

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This will have no impact on ODM's budget since this rule is being rescinded.

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:

There is no estimated cost of compliance.

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? **No**

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? **No**

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? **No**