

## Rule Summary and Fiscal Analysis

### Part A - General Questions

**Rule Number:** 5160-1-18

**Rule Type:** Amendment

**Rule Title/Tagline:** Telehealth.

**Agency Name:** Ohio Department of Medicaid

**Division:**

**Address:** 50 Town St 4th floor Columbus OH 43218-2709

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#### I. Rule Summary

1. **Is this a five year rule review?** No
  - A. **What is the rule's five year review date?** 11/15/2025
2. **Is this rule the result of recent legislation?** No
3. **What statute is this rule being promulgated under?** 119.03
4. **What statute(s) grant rule writing authority?** 5164.02, 5164.95
5. **What statute(s) does the rule implement or amplify?** 5164.02, 5164.95
6. **What are the reasons for proposing the rule?**

The rule is being proposed for amendment to add new telehealth eligible services including behavioral health, pregnancy education and diabetes management services.

7. **Summarize the rule's content, and if this is an amended rule, also summarize the rule's changes.**

Ohio Administrative Code rule 5160-1-18, entitled "Telehealth" is being proposed for amendment by ODM. This rule provides definitional information, eligible rendering and billing providers, covered telehealth services, provider responsibilities, and key guidelines for submission and payment of telehealth claims. The amendments

will expand covered telehealth services to include additional behavioral health services, and new services to expand pregnancy education and diabetes management. Telehealth services are also expanded to include any other services specifically authorized in rules promulgated by ODM. The office or other outpatient visits for the evaluation and management of new patients, straightforward medical decision making (10 min) service has been removed from the list of eligible telehealth services per guidance by the American Medical Association. Intensive Home-Based Treatment has also been removed from the list of eligible telehealth services as it will be changing to an OhioRISE only service. Appendix A has been updated with procedure codes that have been added or removed from eligible telehealth services.

8. **Does the rule incorporate material by reference? Yes**
9. **If the rule incorporates material by reference and the agency claims the material is exempt pursuant to R.C. 121.75, please explain the basis for the exemption and how an individual can find the referenced material.**

This rule incorporates one or more references to another rule or rules of the Administrative Code. This question is not applicable to any incorporation by reference to another Administrative Code rule because such reference is exempt from compliance with RC 121.71 to 121.74 pursuant to RC 121.75(A)(1)(d).

This rule incorporates one or more references to the Revised Code. This question is not applicable to any incorporation by reference to the Revised Code because such reference is exempt from compliance with RC 121.71 to 121.74 pursuant to RC 121.75(A)(1)(a).

This rule incorporates one or more references to the Health Insurance Portability and Accountability Act of 1996 (HIPAA). This question is not applicable to any incorporation by reference to HIPAA because such reference is exempt from compliance with RC 121.71 to 121.74 pursuant to RC 121.75(A)(2)(c).

This rule incorporates one or more references to the Code of Federal Regulations. This question is not applicable to any incorporation by reference to the Code of Federal Regulations because such reference is exempt from compliance with RC 121.71 to 121.74 pursuant to RC 121.75(A)(2)(d).

This rule incorporates one or more references to HIPAA related directives from the office for civil rights at the department of health and human services issued during the COVID-19 public health emergency. This question is not applicable to any incorporation by reference to HIPAA related directives because such reference is exempt from compliance with RC 121.71 to 121.74 pursuant to RC 121.75(B)(5).

This rule incorporates one or more references to ODM billing guidelines. This question is not applicable to any incorporation by reference to ODM billing guidelines because such reference is exempt from compliance with RC 121.71 to 121.74 pursuant to RC 121.75(B)(6).

**10. If revising or re-filing the rule, please indicate the changes made in the revised or re-filed version of the rule.**

5160-1-18 (C)(5): "Out of state Telehealth providers are subject to requirements in Administrative Code rule 5160-1-11 and should have a physical location in Ohio where individuals may opt to receive in person services rather than telehealth services" has been removed.

*05/25/2022 The following revisions were made:*

*"Pharmacists as defined in Chapter 4729. of the Revised Code." was added to 5160-1-18 (B)(1)(q) "Eligible providers."*

*"Out of state Telehealth providers are subject to the provisions in Administrative Code rule 5160-1-11 and should have a physical location in Ohio where individuals may opt to receive in person services rather than telehealth services," was added to 5160-1-18(C)(5)*

*05/11/2022 This revision is being filled to upload the correct Appendix B version without previous watermarks and to update the ODM contact for this rule package.*

## **II. Fiscal Analysis**

**11. Please estimate the increase / decrease in the agency's revenues or expenditures in the current biennium due to this rule.**

This will increase expenditures.

\$54,000

State expenditures are expected to increase by \$54,000 for the remainder of the biennium.

**12. What are the estimated costs of compliance for all persons and/or organizations directly affected by the rule?**

There is no estimated cost of compliance.

13. Does the rule increase local government costs? (If yes, you must complete an RSFA Part B). No
14. Does the rule regulate environmental protection? (If yes, you must complete an RSFA Part C). No
15. If the rule imposes a regulation fee, explain how the fee directly relates to your agency's cost in regulating the individual or business.

Not Applicable.

### **III. Common Sense Initiative (CSI) Questions**

16. Was this rule filed with the Common Sense Initiative Office? No
17. Does this rule have an adverse impact on business? No
  - 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
  - D. Is it likely that the rule will directly reduce the revenue or increase the expenses of the lines of business of which it will apply or applies? No

### **IV. Regulatory Restrictions (This section only applies to agencies indicated in R.C. 121.95 (A))**

18. Are you adding a new or removing an existing regulatory restriction as defined in R.C. 121.95? Yes
  - A. How many new regulatory restrictions do you propose adding? 0
  - B. How many existing regulatory restrictions do you propose removing? 1

5160-1-18(E)(8) - "Must" is being removed from paragraph (E)(8).