

Rule Summary and Fiscal Analysis

Part A - General Questions

Rule Number: 5160-1-31

Rule Type: New

Rule Title/Tagline: Prior authorization.

Agency Name: Ohio Department of Medicaid

Division:

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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?
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, 5160.34
5. What statute(s) does the rule implement or amplify? 5160.34
6. What are the reasons for proposing the rule?

To update policy concerning prior authorization of services for the Medicaid program.

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

Rule 5160-1-31, entitled "Prior authorization", is being proposed for adoption to update policy and outdated information regarding prior authorization (PA) and to remove unnecessary language. It replaces the existing rule which is being proposed for rescission. This rule now governs managed care entities (MCE) PA requirements, and corresponding language was added throughout. This rule updates references to

the Ohio Administrative Code and Ohio Revised Code, and changes references from Ohio Department of Job and Family Services (ODJFS) to Ohio Department of Medicaid (ODM), reflecting the change in oversight of the Medicaid program. The rule clarifies that PA request submission and the exceptions to PA requirements are governed for pharmacy services by Ohio Administrative Code rule 5160-9-03. The rule also adds a new exception from PA requirements at the discretion of and as directed by ODM. The rule incorporates the provisions from Ohio Revised Code (ORC) 5160.34. Sections of the rule concerning PA procedures such as the use of the assigned PA number for submitting claims and language to provide a written denial and hearing rights have been removed. This rule includes language directing providers to the ODM main website to locate PA submission guidance in accordance with ORC 5160.34.

The rule also includes a new ODM process by which a provider who has received a denied PA request may have that denial reviewed by ODM or its designee. Information that must be submitted in the reconsideration is stated as well as relevant time frames. For denials made by a MCE or transplant consortium, the rule explains the organization's process for reconsideration must be followed by the provider. The rule also excludes certain inpatient and outpatient hospital services and instead refers to a separate OAC rule to govern the specific PA requirements for these 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 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)(1)(d).

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 RC121.76(A)(1)(a).

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

Not Applicable

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 have no impact on revenues or expenditures.

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There is no expected impact on our budget.

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

Not applicable

- 13. Does the rule increase local government costs? (If yes, you must complete an RSFA Part B). Yes**

- 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.**

The cost of this rule to providers would be the staff time necessary to submit the PA request, or the request for reconsideration, and any additional documentation. The timeframe to gather the documentation required to justify the medical necessity of the PA request or reconsideration cannot be easily quantified given the high variability between different procedures and the unique circumstances of each patient. If a paper PA request is submitted, there would be additional staff time to resubmit the request electronically. The total cost in staff time would be the time multiplied by the staff's hourly wage.

An additional cost of the rule would occur when a PA request or reconsideration is denied. The denial would result in any associated claims not being reimbursed. The cost of the denied claims is difficult to calculate due to the high variability in the reimbursement for different procedure types and the volume of claims generated by a particular provider requiring PA.

III. Common Sense Initiative (CSI) Questions

- 16. Was this rule filed with the Common Sense Initiative Office? Yes**

- 17. Does this rule have an adverse impact on business? Yes**

- A. **Does this rule require a license, permit, or any other prior authorization to engage in or operate a line of business?** Yes

This rule is about prior authorization and when it is required. Prior authorization for certain healthcare services is a standard practice in both public and private sectors of the industry. PA is used on specific services to ensure program integrity and prevent fraud.

- 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?** Yes

The sanction included in the rule is that a service or item requiring prior authorization will not be reimbursed if prior authorization is not sought prior to the service or item being provided and an exception does not exist.

- C. **Does this rule require specific expenditures or the report of information as a condition of compliance?** Yes

The report of information is the request of prior authorization or reconsideration as well as any supporting information that must be included in the reconsideration request.

- 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?** Yes

The reduction in revenue would occur if the PA or reconsideration request was denied. Any associated claims requiring the prior authorization would be denied resulting in a loss of revenue.

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?** 4

(A) Reimbursement for some items and/or services covered under the medicaid program is available only upon obtaining prior authorization from the Ohio department of job and family services (ODJFS). Prior authorization must

be obtained from ODJFS or its designee by the provider before the services are rendered or the items delivered, unless the services meet the provisions in paragraph (F) of this rule.

(C) All prior authorization requests must be submitted through the medicaid information technology system (MITS) web portal. Paper prior authorization requests will be returned to the provider unprocessed.

(E) When a request for prior authorization has been approved, the notification will include a prior authorization (PA) number. In order for the provider to be reimbursed, the provider must use the assigned PA number when submitting the claim for payment.

(B) Services, supplies or prescription drugs that require prior authorization by the department are identified in Chapters 5101:3-2 to 5101:3-56 of the Administrative Code.

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Part B - Local Governments Questions

1. Does the rule increase costs for:

A. Public School Districts	Yes
B. County Government	Yes
C. Township Government	Yes
D. City and Village Governments	Yes

2. Please estimate the total cost, in dollars, of compliance with the rule for the affected local government(s). If you cannot give a dollar cost, explain how the local government is financially impacted.

The cost of this rule to providers would be the staff time necessary to submit the PA request, or the request for reconsideration, and any additional documentation. The timeframe to gather the documentation required to justify the medical necessity of the PA request or reconsideration cannot be easily quantified given the high variability between different procedures and the unique circumstances of each patient. If a paper PA request is submitted, there would be additional staff time to resubmit the request electronically. The total cost in staff time would be the time multiplied by the staff's hourly wage.

An additional cost of the rule would occur when a PA request or reconsideration is denied. The denial would result in any associated claims not being reimbursed. The cost of the denied claims is difficult to calculate due to the high variability in the reimbursement for different procedure types and the volume of claims generated by a particular provider requiring PA.

3. Is this rule the result of a federal government requirement? No

- A. If yes, does this rule do more than the federal government requires? *Not Applicable***
- B. If yes, what are the costs, in dollars, to the local government for the regulation that exceeds the federal government requirement?**
- Not Applicable*

4. Please provide an estimated cost of compliance for the proposed rule if it has an impact on the following:

A. Personnel Costs

The personnel costs would be the staff time necessary to submit the PA request, or the request for reconsideration and any additional documentation multiplied by the staff's hourly wage. The cost of returning the paper PA request would be the delay in obtaining approval for the procedure requiring PA along with the staff time used to submit the original paper and the time to resubmit the request electronically times their hourly wage.

B. New Equipment or Other Capital Costs

There would be no new equipment or other capital costs associated with this rule.

C. Operating Costs

There would be no new operating costs associated with this rule.

D. Any Indirect Central Service Costs

There would be no new indirect costs associated with this rule.

E. Other Costs

There would be no new other costs associated with this rule.

5. Please explain how the local government(s) will be able to pay for the increased costs associated with the rule.

The payment for services requiring PA should offset the costs associated with this necessary practice to ensure program integrity and prevent fraud.

6. What will be the impact on economic development, if any, as the result of this rule?

Economic development should be impacted positively due to the reimbursement for services approved through the PA process.