

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? 5160.02, 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Rule 5160-1-31, entitled "Prior authorization", is being proposed for adoption to update policy and outdated information regarding prior authorization (PA) and to remove unnecessary language.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, adds references to the 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 in cases of emergency, for prescribed drugs requiring PA, the drugs may be rendered in accordance with Ohio Administrative Code rule 5160-9-03. The rule also adds a new exception from PA requirements for a retroactive PA 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.

- 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 121.75(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 RC121.75(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.**

No changes have been made to the rule or policy. The RSFA uploaded during the previous filing was an older version that did not accurately reflect all the changes in policy. This rule is being Refiled in order to submit the correct RSFA for the policy change.

04/27/2022 Uploaded the correct rule file instead of the draft version.

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?

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.

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.

There is no regulation fee imposed by this rule.

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 speciï-c 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 include 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? No

- A. How many new regulatory restrictions do you propose adding?**

Not Applicable

B. How many existing regulatory restrictions do you propose removing?

Not Applicable

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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.