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Hearing Date: 5/16/2022

Today's Date: 6/1/2022

Agency: Ohio Department of Medicaid

Rule Number(s): 5160-1-18

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If no comments at the hearing, please check the box.

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List organizations or individuals giving or submitting testimony before, during or after the public hearing and indicate the rule number(s) in question.

1. Kelly Shank, Ohio Association of Advanced Practice Nurses (OAAPN): OAC 5160-1-18 (D)(2)
2. Steven Shook, Cleveland Clinic: OAC 5160-1-18 (C)(4) and OAC 5160-1-18 (D)(1)
3. Robert Weber and Henry Mann, The Ohio State University College of Pharmacy: OAC 5160-1-18 (B)
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## Hearing Summary Report

### **Consolidated Summary of Comments Received**

Please review all comments received and complete a consolidated summary paragraph of the comments and indicate the rule number(s).

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The following comments were received as written testimony for Administrative Code 5160-1-18, "Telehealth" rule amendment.

Ms. Shank commented on the draft amendment for OAC 5160-1-18 (D)(2). Ms. Shank has requested an amendment of this section to remove language referring to a maximum level of complexity that may be offered during an evaluation and management visit. Ms. Shank shared specific examples of when moderate and low complexity may not be appropriate levels of care, such as when an acute issue arises during a virtual visit and the patient needs to seek emergency or specialist services immediately. Ms. Shank proposes the rule language should read "Evaluation and management of an established patient described as "office or other outpatient visit," deleting "with medical decision making not to exceed moderate complexity."

Mr. Weber and Mr. Mann request naming Pharmacists specifically in 5160-1-18 (B), under "Eligible Providers." They cited OAC 5160-8-52, effective January 2021, as further support to include Pharmacists as Eligible Providers in 5160-1-18 to ensure Pharmacists are consistently represented throughout the Medicaid chapter of the Ohio Administrative Code.

Mr. Shook has requested to remove the requirement in 5160-1-18 (C)(4) for providers to conduct at least one in-person annual visit should a patient receive telehealth services for a consecutive 12 month period or longer, or refer the individual to another source of clinical care that is not the emergency department. Mr. Shook is concerned this requirement may added unnecessary burden to the patient with travel, etc. and need for an in-person visit should be left to the provider's discretion. Mr. Shook also shared Ms. Shank's concern related to Evaluation and Management language in 5160-1-18 (D)(1), citing it is impossible to know the patient's medical complexity prior to a visit. Mr. Shook suggests providers have demonstrated their capability to provide complex care through telehealth over the past two years and has requested level of care language be removed.

## Hearing Summary Report

### **Incorporated Comments into Rule(s)**

Indicate how comments received during the hearing process were incorporated into the rule(s). If no comments were incorporated, explain why not.

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“Pharmacists as defined in Chapter 4729. of the Revised Code” has been added to 5160-1-18 (B)(1)(q) in accordance with 5160-8-52 effective January 2021.

At this time, ODM intends to maintain current language in 5160-1-18 (C)(4) requiring an annual in-person visit for patients seeking virtual care for at least 12 consecutive months. ODM does not intend for telehealth to be a substitute for all care at all times. Virtual visits should be used to fill gaps in care and serve as an enhanced point of access. Critical details of a member’s health may be missed through video or audio-only modalities. Seeing a patient at least once after twelve consecutive months will allow a practitioner to pick up on significant shifts in a patient’s condition such weight change and other non-verbal communications. Additionally, in-person, hands-on care is important for building relationships and trust between patient and practitioner. Trust is essential for shared decision making and, as such, ODM will maintain our requirement for an annual in-person visit should a practitioner render services to the same patient for at least 12 consecutive months.

Furthermore, ODM will also keep the language as is in 5160-1-18 (D)(1) and 5160-1-168 (D)(2) regarding payment for evaluation and management services delivered through telehealth. Specific level of complexity terminology is included in the E&M code definitions we currently allow for codes 99202-99204 and 99211-99214 for new and established patients respectively. We will allow the more highly complex codes 99205 and 99215 to be provided by OhioMHAS certified behavioral health providers only. Ensuring the highest standards in quality of care is our greatest priority and the agency’s clinical team sustains support for required in-person physical exams for more complicated patients.