PUBLIC HEARING NOTICE

OHIO DEPARTMENT OF MEDICAID

DATE: May 16, 2022

TIME: 10:00 AM

Teleconference Phone Number: 1-614-721-2972

Teleconference Pin: 916211497#,

Link to Microsoft Teams Meeting for Hearing: Click here to join the meeting

Pursuant to Chapter 119. and section 5167.02 of the Revised Code, the Director of the Ohio Department of Medicaid (ODM) gives notice of ODM's intent to consider the adoption, amendment, or rescission of the rules identified below and of a public hearing thereon.

Ohio Administrative Code (OAC) rule 5160-26-01, entitled "Managed health care programs: definitions," sets forth the definitions used throughout Chapter 5160-26 of the Administrative Code regarding the managed care program. The definitions in this rule apply to managed care organizations (MCOs), MyCare Ohio Plans (MCOPs), the OhioRISE (Resilience through Integrated Systems and Excellence) plan, and the single Pharmacy Benefit Manager (SPBM). The rule is being proposed for amendment to update policy related to the administration of the Medicaid managed care program and for five year rule review. Changes to this rule include: revising the title of the rule, adding definitions to this rule that were previously found in other Chapter 26 rules, adding new definitions specifically related to the SPBM, adding a definition of "managed care entity (MCE)" in paragraph (W), adding a definition of "network provider" in paragraph (DD), adding a definition of "respite services" in paragraph (UU), adding a definition of "single case agreement" in paragraph (ZZ), adding a definition of "state hearing" in paragraph (DDD), other grammatical and technical edits, and updating references to United States Code and the Code of Federal Regulations.

OAC rule 5160-26-02, entitled "Managed care: eligibility and enrollment", sets forth the eligibility criteria for individuals to be enrolled in a managed care organization (MCO) or the SPBM and the enrollment process. The rule is being proposed for amendment to update policy related to administration of the Medicaid managed care program. Changes to the rule include: revising the title of the rule, adding a clarification that the rule does not apply to the OhioRISE plan in paragraph (A), adding language regarding voluntary MCO enrollment for individuals enrolled in the OhioRISE 1915(c) home and community based waiver in paragraph (B)(3)(c), adding language regarding SPBM enrollment in paragraph (C), removing inpatient facility admission language in paragraph (D)(2) as the language is included in the MCO provider agreement, adding references to the SPBM where applicable throughout the rule, other grammatical and technical edits, and updating references to United States Code and the Code of Federal Regulations.

OAC rule 5160-26-02.1, entitled "Managed care: termination of enrollment", set forth the reasons why an individual enrolled in a managed care organization (MCO) or the SPBM may be terminated from and the process for termination. The rule is being proposed for amendment to update policy related to administration of the Medicaid managed care program. Changes to the rule include: revising the title of the rule, adding a clarification that the rule does not apply to the OhioRISE plan in paragraph (A), adding SPBM termination language in paragraph (C), clarifying language regarding mandatory populations and voluntary populations in paragraphs (E)(1) and (E)(2), other grammatical and technical edits, and updating references to United States Code and the Code of Federal Regulations.

OAC rule 5160-26-03, entitled "Managed care: covered services" sets forth the services which must be covered by managed care organizations (MCOs) and the SPBM and addresses any exclusions or limitations for those services. The rule is being proposed for amendment to update policy related to administration of the Medicaid managed care program and for five year rule review. Changes to the rule include: revising the title of the rule, adding a clarification that the rule does not apply to the OhioRISE plan in paragraph (A), removing definitions in paragraph (E)(3)(f) that are now included in OAC rule 5160-26-01, adding a requirement for the MCO to cover two dental screenings per year for pregnant members in paragraph (E)(16), removing language related to respite services in paragraph (E)(17) as this language is included in a new OAC rule 5160-26-03.2, adding a clarification that the MCO is not responsible for covering OhioRISE plan services in paragraph (E)(18), adding references to the SPBM where applicable throughout the rule, and other grammatical and technical edits.

OAC rule 5160-26-03.1, entitled "Managed care: primary care and utilization management", sets forth the requirements for managed care organizations (MCOs) and the SPBM related to members' primary care providers (PCPs) and utilization management. The rule is being proposed for amendment to update policy related to administration of the Medicaid managed care program and for five year rule review. Changes to the rule include: revising the title of the rule, adding a clarification that the rule does not apply to the OhioRISE plan in paragraph (A), changing references from "managed care plans" to "managed care organizations" in accordance with OAC rule 5160-26-01, adding language about compliance with the Metal Health Parity and Addiction Equity Act (MHPAEA) in paragraph (C)(2)(h), removing language regarding service authorizations not being reached in the specified timeframes in paragraph (C)(3)(g) as the language is duplicative of requirements found in OAC rule 5160-26-08.4, clarifying prior authorization requirements and timeframes for covered outpatient drugs in paragraph (C)(3)(g), removing requirement to implement an emergency department diversion program in paragraph (C)(4), adding references to the SPBM where applicable throughout the rule, other grammatical and technical edits, and updating references to United States Code.

OAC rule 5160-26-05, entitled "Managed care: provider panel and contracting specifications", sets forth managed care provider panel and contracting specifications. This rule is applicable to managed care organizations (MCOs), the single pharmacy benefit manager (SPBM), MyCare Ohio Plans (MCOPs), and the OhioRISE plan, hereinafter referred to collectively as managed care entities (MCEs). The rule is being proposed for amendment to update policy related to administration of the Medicaid managed care program and for five year

rule review. Changes to the rule include: revising the title of the rule, changing references from "subcontracts" to "provider contracts" throughout the rule, adding references to MCE and SPBM where applicable throughout the rule, adding clarification about ODM credentialed providers in paragraph (C)(4), adding reference to OAC rule 5160-1-13.1 regarding billing members and removed duplicative rule language in paragraph (D)(9)(b), other grammatical and technical edits, and updating references to United States Code and the Code of Federal Regulations**.**

OAC rule 5160-26-05.1, entitled "Managed care: provider services", sets forth the requirements for information that managed care entities must make available to providers and interested parties. This rule is applicable to managed care organizations (MCOs), the single pharmacy benefit manager (SPBM), MyCare Ohio Plans (MCOPs), and the OhioRISE plan, hereinafter referred to collectively as managed care entities (MCEs). The rule is being proposed for amendment to update policy related to administration of the Medicaid managed care program. Changes to the rule include: revising the title of the rule, adding references to MCE where applicable throughout the rule, removing requirements for credentialing providers in paragraph (A)(6), other grammatical and technical edits, and updating references to the Code of Federal Regulations.

OAC rule 5160-26-06, entitled "Managed care: program integrity – fraud, waste and abuse, audits, reporting, and record retention" sets forth the managed care requirements related to fraud and abuse prevention, program integrity, audits, reporting and record retention. This rule is applicable to managed care organizations (MCOs), the single pharmacy benefit manager (SPBM), MyCare Ohio Plans (MCOPs), and the OhioRISE plan, hereinafter referred to collectively as managed care entities (MCEs). The rule is being proposed for amendment to update policy related to administration of the Medicaid managed care program and for five year rule review. Changes to the rule include: revising the title of the rule, adding references to MCE where applicable throughout the rule, adding references to the SPBM contract where applicable throughout the rule, and other grammatical and technical edits.

OAC rule 5160-26-08.3, entitled "Managed care: member rights", sets forth the rights of a managed care enrollee. This rule is applicable to managed care organizations (MCOs), the single pharmacy benefit manager (SPBM), MyCare Ohio Plans (MCOPs), and the OhioRISE plan, hereinafter referred to collectively as managed care entities (MCEs). The rule is being proposed for amendment to update policy related to administration of the Medicaid managed care program. Changes to the rule include: revising the title of the rule, adding references to MCE where applicable throughout the rule, other grammatical and technical edits, and updating references to the Code of Federal Regulations**.**

OAC rule 5160-26-08.4, entitled "Managed care: appeal and grievance system", sets forth the appeal and grievance rights and responsibilities for managed care organizations (MCOs), the SPBM, and members enrolled with those entities. This rule is applicable to managed care organizations (MCOs), the single pharmacy benefit manager (SPBM), and the OhioRISE plan. The rule is being proposed for amendment to update policy related to administration of the Medicaid managed care program. Changes to the rule include: revising the title of the rule, removing definitions in paragraph (A) that are now included in OAC rule 5160-26-01, adding

references to SPBM where applicable throughout the rule, other grammatical and technical edits, and updating references to the Code of Federal Regulations.

OAC rule 5160-26-09.1, entitled "Managed care: third party liability and recovery", sets forth the coordination of benefits and third-party liability (TPL) requirements for managed care organizations (MCOs) and the SPBM. This rule is applicable to managed care organizations (MCOs), the single pharmacy benefit manager (SPBM), MyCare Ohio Plans (MCOPs), and the OhioRISE plan, hereinafter referred to collectively as managed care entities (MCEs). The rule is being proposed for amendment to update policy related to administration of the Medicaid managed care program. Changes to the rule include: revising the title of the rule, adding references to MCE where applicable, adding a TPL exclusion for children in custody in paragraph (C)(3), other grammatical and technical edits, and updating references to United States Code.

OAC rule 5160-26-10, entitled "Managed care: sanctions and provider agreement actions", sets forth the sanctions and provider agreement actions for Medicaid managed care organizations (MCOs). This rule is applicable to managed care organizations (MCOs), MyCare Ohio Plans (MCOPs), and the OhioRISE plan. It is not applicable to the single pharmacy benefit manager (SPBM). The rule is being proposed for amendment to update policy related to administration of the Medicaid managed care program. Changes to the rule include: revising the title of the rule, adding a clarification that the rule does not apply to the SPBM in paragraph (A), changing references from "managed care plans" to "managed care organizations" in accordance with OAC rule 5160-26-01, other grammatical and technical edits, and updating references to United States Code and the Code of Federal Regulations.

OAC rule 5160-26-11, entitled "Managed care: non-contracting providers", sets forth the requirements for payment to non-contracting providers for services provided to members. This rule is applicable to managed care organizations (MCOs), the single pharmacy benefit manager (SPBM), MyCare Ohio Plans (MCOPs), and the OhioRISE plan, hereinafter referred to collectively as managed care entities (MCEs). The rule is being proposed for amendment to update policy related to administration of the Medicaid managed care program. Changes to the rule include: revising the title of the rule, changing references from "managed care plans" to "managed care organizations" in accordance with OAC rule 5160-26-01, removing definitions in paragraph (A) that are now included in OAC rule 5160-26-01, adding references to MCE where applicable, other grammatical and technical edits, and updating references to the Code of Federal Regulations.

OAC rule 5160-26-12, entitled "Managed care: member co-payments", sets forth requirements for managed care organizations (MCOs) and the SPBM when they elect to implement a co-payment program. This rule is applicable to managed care organizations (MCOs) and the single pharmacy benefit manager (SPBM). The rule is being proposed for amendment to update policy related to administration of the Medicaid managed care program. Changes to the rule include: revising the title of the rule, adding a clarification that the rule does not apply to the OhioRISE plan in paragraph (A), changing references from "managed care plans" to "managed care organizations" in accordance with OAC rule 5160-26-01, adding SPBM co-payment program requirements in paragraph (C), adding references to the SPBM where applicable

throughout the rule, other grammatical and technical edits, and updating references to the Code of Federal Regulations.

Pursuant to Section-of Sub. H.B. 51 (134th General Assembly), ODM will hold the public hearing for this rule package via teleconference. The phone number, PIN (access code), link for teleconference attendance, and the date and time for this hearing are listed at the top of this Notice. All interested parties are invited to participate in the public hearing. Oral and written testimony will be accepted for this hearing and will be given the same consideration. Those who want to give oral testimony are asked to send an email to Rules@Medicaid.Ohio.gov no later than one hour before the hearing to be added to the witness list. There will be a final call at the end of the hearing for those who wish to offer oral testimony but are not on the witness list.

Written comments submitted via fax, United States Postal Service, and email that are received or postmarked no later than the day of the hearing will be accepted as testimony and become part of the hearing record. All testimony will become public record; therefore, ODM asks that protected health information be excluded unless the information belongs to the person submitting the testimony or to a person for which the submitter is a legal guardian. Written testimony sent via email is highly recommended. All testimony received via email will receive a confirmation of receipt.

A copy of the proposed rule(s) is available, without charge, to any person at the address listed below. The rules are also available on the internet at http://www.registerofohio.state.oh.us/. Requests for a copy of the proposed rule(s) or comments on the rule(s) should be submitted by mail to the Ohio Department of Medicaid, Office of Legal Counsel, 50 W. Town Street, Suite 400, Columbus, Ohio 43215-3414, by fax at (614) 995-1301, or by e-mail at Rules@Medicaid.Ohio.gov.

ODM is committed to providing access and inclusion and reasonable accommodation in its services, activities, programs, and employment opportunities in accordance with the Americans with Disabilities Act (ADA) and other applicable laws. To request a reasonable accommodation due to a disability, please contact ODM's ADA Coordinator at 614-995-9981/TTY 711, Fax 1-614-644-1434, or Email: ODM_EEO_EmployeeRelations@medicaid.ohio.gov at least three (3) business days prior to the scheduled meeting. Further information can be found here: Notice of Nondiscrimination.