

# AN ACT

To amend sections 5162.01, 5162.36, 5162.361, and 5162.363 and to enact section 5162.366 of the Revised Code to authorize certain Medicaid providers to make referrals for certain services under the Medicaid School Program.

*Be it enacted by the General Assembly of the State of Ohio:*

SECTION 1. That sections 5162.01, 5162.36, 5162.361, and 5162.363 be amended and section 5162.366 of the Revised Code be enacted to read as follows:

Sec. 5162.01. (A) As used in the Revised Code:

(1) "Medicaid" and "medicaid program" mean the program of medical assistance established by Title XIX of the "Social Security Act," 42 U.S.C. 1396 et seq., including any medical assistance provided under the medicaid state plan or a federal medicaid waiver granted by the United States secretary of health and human services.

(2) "Medicare" and "medicare program" mean the federal health insurance program established by Title XVIII of the "Social Security Act," 42 U.S.C. 1395 et seq.

(B) As used in this chapter:

(1) "Dual eligible individual" has the same meaning as in section 5160.01 of the Revised Code.

(2) "Exchange" has the same meaning as in 45 C.F.R. 155.20.

(3) "Federal financial participation" has the same meaning as in section 5160.01 of the Revised Code.

(4) "Federal poverty line" means the official poverty line defined by the United States office of management and budget based on the most recent data available from the United States bureau of the census and revised by the United States secretary of health and human services pursuant to the "Omnibus Budget Reconciliation Act of 1981," section 673(2), 42 U.S.C. 9902(2).

(5) "Healthy start component" means the component of the medicaid program that covers pregnant women and children and is identified in rules adopted under section 5162.02 of the Revised Code as the healthy start component.

(6) "Home and community-based services" means services provided under a home and community-based services medicaid waiver component.

(7) "Home and community-based services medicaid waiver component" has the same meaning as in section 5166.01 of the Revised Code.

(8) "ICF/IID" has the same meaning as in section 5124.01 of the Revised Code.

(9) "Individualized education program" has the same meaning as in section 3323.011 of the Revised Code.

(10) "Medicaid managed care organization" has the same meaning as in section 5167.01 of

the Revised Code.

~~(10)~~(11) "Medicaid provider" has the same meaning as in section 5164.01 of the Revised Code.

~~(11)~~(12) "Medicaid services" has the same meaning as in section 5164.01 of the Revised Code.

~~(12)~~(13) "Medicaid waiver component" has the same meaning as in section 5166.01 of the Revised Code;

~~(13)~~(14) "Nursing facility" and "nursing facility services" have the same meanings as in section 5165.01 of the Revised Code.

~~(14)~~(15) "Ordering or referring only provider" means a medicaid provider who orders, prescribes, refers, or certifies a service or item reported on a claim for medicaid payment but does not bill for medicaid services.

(16) "Political subdivision" means a municipal corporation, township, county, school district, or other body corporate and politic responsible for governmental activities only in a geographical area smaller than that of the state.

~~(15)~~(17) "Prescribed drug" has the same meaning as in section 5164.01 of the Revised Code.

~~(16)~~(18) "Provider agreement" has the same meaning as in section 5164.01 of the Revised Code.

~~(17)~~(19) "Qualified medicaid school provider" means the board of education of a city, local, or exempted village school district, the governing authority of a community school established under Chapter 3314. of the Revised Code, the state school for the deaf, and the state school for the blind to which both of the following apply:

(a) It holds a valid provider agreement.

(b) It meets all other conditions for participation in the medicaid school component of the medicaid program established in rules authorized by section 5162.364 of the Revised Code.

~~(18)~~(20) "State agency" means every organized body, office, or agency, other than the department of medicaid, established by the laws of the state for the exercise of any function of state government.

~~(19)~~(21) "Vendor offset" means a reduction of a medicaid payment to a medicaid provider to correct a previous, incorrect medicaid payment to that provider.

Sec. 5162.36. The medicaid director shall create, in accordance with sections 5162.36 to ~~5162.365~~5162.366 of the Revised Code, the medicaid school component of the medicaid program.

Sec. 5162.361. A qualified medicaid school provider participating in the medicaid school component of the medicaid program may submit a claim to the department of medicaid for federal financial participation for providing, in schools, services covered by the medicaid school component to medicaid recipients who are eligible for the services. No qualified medicaid school provider may submit such a claim before the provider incurs the cost of providing the service.

The claim shall include certification of the qualified medicaid school provider's expenditures for the service. The certification shall show that the money the qualified medicaid school provider used for the expenditures was nonfederal money the provider may legally use for providing the service and that the amount of the expenditures was sufficient to pay the full cost of the service.

Except as otherwise provided in sections 5162.36 to ~~5162.365~~5162.366 of the Revised Code,

a qualified medicaid school provider is subject to all conditions of participation in the medicaid program that generally apply to providers of goods and services under the medicaid program, including conditions regarding claims, audits, and recovery of overpayments.

Sec. 5162.363. The department of medicaid shall enter into an interagency agreement with the department of education under section 5162.35 of the Revised Code that provides for the department of education to administer the medicaid school component of the medicaid program other than the aspects of the component that sections 5162.36 to ~~5162.365~~-5162.366 of the Revised Code require the department of medicaid to administer. The interagency agreement may include a provision that provides for the department of education to pay to the department of medicaid the nonfederal share of a portion of the administrative expenses the department of medicaid incurs in administering the aspects of the component that the department of medicaid administers.

To the extent authorized by rules authorized by section 5162.021 of the Revised Code, the department of education shall adopt rules establishing a process by which qualified medicaid school providers participating in the medicaid school component pay to the department of education the nonfederal share of the department's expenses incurred in administering the component. The rules shall be adopted in accordance with Chapter 119. of the Revised Code.

Sec. 5162.366. (A) Subject to division (B) of this section and for the purpose of a medicaid recipient receiving, in accordance with the recipient's individualized education program, physical therapy services, occupational therapy services, speech-language pathology services, or audiology services under the medicaid school component of the medicaid program:

(1) A physical therapist is a licensed practitioner of the healing arts for the purpose of 42 C.F.R. 440.110(a)(1) and may make a referral for physical therapy services for the recipient.

(2) An occupational therapist is a licensed practitioner of the healing arts for the purpose of 42 C.F.R. 440.110(b)(1) and may make a referral for occupational therapy services for the recipient.

(3) A speech-language pathologist is a licensed practitioner of the healing arts for the purpose of 42 C.F.R. 440.110(c)(1) and may make a referral for speech-language pathology services for the recipient.

(4) An audiologist is a licensed practitioner of the healing arts for the purpose of 42 C.F.R. 440.110(c)(1) and may make a referral for audiology services for the recipient.

(B) To be able to make a referral for a service under this section, a physical therapist, occupational therapist, speech-language pathologist, or audiologist must have a provider agreement. This does not preclude a physical therapist, occupational therapist, speech-language pathologist, or audiologist from being an ordering or referring only provider.

SECTION 2. That existing sections 5162.01, 5162.36, 5162.361, and 5162.363 of the Revised Code are hereby repealed.

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*Speaker* \_\_\_\_\_ *of the House of Representatives.*

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*President* \_\_\_\_\_ *of the Senate.*

Passed \_\_\_\_\_, 20\_\_\_\_

Approved \_\_\_\_\_, 20\_\_\_\_

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*Governor.*

The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

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*Director, Legislative Service Commission.*

Filed in the office of the Secretary of State at Columbus, Ohio, on the \_\_\_\_ day of \_\_\_\_\_, A. D. 20 \_\_\_\_.

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*Secretary of State.*

File No. \_\_\_\_\_ Effective Date \_\_\_\_\_