

**As Reported by the Senate Education Committee**

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**Sub. H. B. No. 89**

**Representative DeVitis**

**Cosponsors: Representatives Ginter, Grossman, Rezabek, Boose, McColley, Brenner, Romanchuk, Sprague, Hagan, Duffey, Gonzales, Butler, Cera, Patterson, Sykes, Bishoff, Anielski, Antonio, Barnes, Bocchieri, Boggs, Boyce, Burkley, Craig, Fedor, Howse, Johnson, G., Kuhns, Lepore-Hagan, O'Brien, M., O'Brien, S., Perales, Reece, Rogers, Ruhl, Slesnick, Smith, K., Strahorn, Terhar**

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**A BILL**

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) <u>"Individualized education program" has the same</u>	44
<u>meaning as in section 3323.011 of the Revised Code.</u>	45
(10) "Medicaid managed care organization" has the same	46
meaning as in section 5167.01 of the Revised Code.	47
<del>(10)</del> -(11) "Medicaid provider" has the same meaning as in	48
section 5164.01 of the Revised Code.	49
<del>(11)</del> -(12) "Medicaid services" has the same meaning as in	50
section 5164.01 of the Revised Code.	51
<del>(12)</del> -(13) "Medicaid waiver component" has the same meaning	52
as in section 5166.01 of the Revised Code;	53
<del>(13)</del> -(14) "Nursing facility" and "nursing facility	54
services" have the same meanings as in section 5165.01 of the	55
Revised Code.	56
<del>(14)</del> -(15) <u>"Ordering or referring only provider" means a</u>	57
<u>medicaid provider who orders, prescribes, refers, or certifies a</u>	58
<u>service or item reported on a claim for medicaid payment but</u>	59
<u>does not bill for medicaid services.</u>	60
(16) "Political subdivision" means a municipal	61
corporation, township, county, school district, or other body	62
corporate and politic responsible for governmental activities	63
only in a geographical area smaller than that of the state.	64
<del>(15)</del> -(17) "Prescribed drug" has the same meaning as in	65
section 5164.01 of the Revised Code.	66
<del>(16)</del> -(18) "Provider agreement" has the same meaning as in	67
section 5164.01 of the Revised Code.	68
<del>(17)</del> -(19) "Qualified medicaid school provider" means the	69
board of education of a city, local, or exempted village school	70

district, the governing authority of a community school 71  
established under Chapter 3314. of the Revised Code, the state 72  
school for the deaf, and the state school for the blind to which 73  
both of the following apply: 74

(a) It holds a valid provider agreement. 75

(b) It meets all other conditions for participation in the 76  
medicaid school component of the medicaid program established in 77  
rules authorized by section 5162.364 of the Revised Code. 78

~~(18)~~(20) "State agency" means every organized body, 79  
office, or agency, other than the department of medicaid, 80  
established by the laws of the state for the exercise of any 81  
function of state government. 82

~~(19)~~(21) "Vendor offset" means a reduction of a medicaid 83  
payment to a medicaid provider to correct a previous, incorrect 84  
medicaid payment to that provider. 85

**Sec. 5162.36.** The medicaid director shall create, in 86  
accordance with sections 5162.36 to ~~5162.365~~5162.366 of the 87  
Revised Code, the medicaid school component of the medicaid 88  
program. 89

**Sec. 5162.361.** A qualified medicaid school provider 90  
participating in the medicaid school component of the medicaid 91  
program may submit a claim to the department of medicaid for 92  
federal financial participation for providing, in schools, 93  
services covered by the medicaid school component to medicaid 94  
recipients who are eligible for the services. No qualified 95  
medicaid school provider may submit such a claim before the 96  
provider incurs the cost of providing the service. 97

The claim shall include certification of the qualified 98  
medicaid school provider's expenditures for the service. The 99

certification shall show that the money the qualified medicaid 100  
school provider used for the expenditures was nonfederal money 101  
the provider may legally use for providing the service and that 102  
the amount of the expenditures was sufficient to pay the full 103  
cost of the service. 104

Except as otherwise provided in sections 5162.36 to 105  
~~5162.365~~ 5162.366 of the Revised Code, a qualified medicaid 106  
school provider is subject to all conditions of participation in 107  
the medicaid program that generally apply to providers of goods 108  
and services under the medicaid program, including conditions 109  
regarding claims, audits, and recovery of overpayments. 110

**Sec. 5162.363.** The department of medicaid shall enter into 111  
an interagency agreement with the department of education under 112  
section 5162.35 of the Revised Code that provides for the 113  
department of education to administer the medicaid school 114  
component of the medicaid program other than the aspects of the 115  
component that sections 5162.36 to ~~5162.365~~ 5162.366 of the 116  
Revised Code require the department of medicaid to administer. 117  
The interagency agreement may include a provision that provides 118  
for the department of education to pay to the department of 119  
medicaid the nonfederal share of a portion of the administrative 120  
expenses the department of medicaid incurs in administering the 121  
aspects of the component that the department of medicaid 122  
administers. 123

To the extent authorized by rules authorized by section 124  
5162.021 of the Revised Code, the department of education shall 125  
adopt rules establishing a process by which qualified medicaid 126  
school providers participating in the medicaid school component 127  
pay to the department of education the nonfederal share of the 128  
department's expenses incurred in administering the component. 129

The rules shall be adopted in accordance with Chapter 119. of 130  
the Revised Code. 131

Sec. 5162.366. (A) Subject to division (B) of this section 132  
and for the purpose of a medicaid recipient receiving, in 133  
accordance with the recipient's individualized education 134  
program, physical therapy services, occupational therapy 135  
services, speech-language pathology services, or audiology 136  
services under the medicaid school component of the medicaid 137  
program: 138

(1) A physical therapist is a licensed practitioner of the 139  
healing arts for the purpose of 42 C.F.R. 440.110(a) (1) and may 140  
make a referral for physical therapy services for the recipient. 141

(2) An occupational therapist is a licensed practitioner 142  
of the healing arts for the purpose of 42 C.F.R. 440.110(b) (1) 143  
and may make a referral for occupational therapy services for 144  
the recipient. 145

(3) A speech-language pathologist is a licensed 146  
practitioner of the healing arts for the purpose of 42 C.F.R. 147  
440.110(c) (1) and may make a referral for speech-language 148  
pathology services for the recipient. 149

(4) An audiologist is a licensed practitioner of the 150  
healing arts for the purpose of 42 C.F.R. 440.110(c) (1) and may 151  
make a referral for audiology services for the recipient. 152

(B) To be able to make a referral for a service under this 153  
section, a physical therapist, occupational therapist, speech- 154  
language pathologist, or audiologist must have a provider 155  
agreement. This does not preclude a physical therapist, 156  
occupational therapist, speech-language pathologist, or 157  
audiologist from being an ordering or referring only provider. 158

**Section 2.** That existing sections 5162.01, 5162.36, 159  
5162.361, and 5162.363 of the Revised Code are hereby repealed. 160