

**As Passed by the Senate**

**133rd General Assembly**

**Regular Session**

**2019-2020**

**Am. Sub. H. B. No. 11**

**Representatives Manning, G., Howse**

**Cosponsors: Representatives Boyd, Russo, West, Carfagna, Crawley, Edwards, Hambley, Patterson, Rogers, Skindell, Sweeney, Arndt, Baldrige, Blair, Blessing, Boggs, Brent, Brown, Carruthers, Cera, Clites, Crossman, Denson, Galonski, Greenspan, Grendell, Hicks-Hudson, Holmes, A., Ingram, Kick, Koehler, Lanese, Leland, Lepore-Hagan, Lightbody, Liston, Miller, J., Miranda, O'Brien, Oelslager, Patton, Perales, Plummer, Robinson, Roemer, Ryan, Scherer, Sheehy, Smith, K., Smith, T., SobECKi, Stein, Strahorn, Sykes, Upchurch, Weinstein**

**Senators Kunze, Maharath, Antonio, Blessing, Burke, Craig, Dolan, Eklund, Gavarone, Hackett, Hoagland, Hottinger, Johnson, Manning, Obhof, O'Brien, Sykes, Thomas, Williams, Wilson, Yuko**

**A BILL**

To amend sections 5162.20 and 5167.12; to amend, 1  
for the purpose of adopting a new section number 2  
as indicated in parentheses, section 5164.10 3  
(5164.16); and to enact new section 5164.10 and 4  
sections 124.825, 3701.614, 3701.615, and 5  
5164.17 of the Revised Code; and to amend 6  
Section 333.10 of H.B. 166 of the 133rd General 7  
Assembly to address tobacco cessation and 8  
prenatal initiatives and to make an 9  
appropriation. 10

**BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:**

**Section 1.** That sections 5162.20 and 5167.12 be amended; 11  
section 5164.10 (5164.16) be amended for the purpose of adopting 12

a new section number as indicated in parentheses; and new 13  
section 5164.10 and sections 124.825, 3701.614, 3701.615, and 14  
5164.17 of the Revised Code be enacted to read as follows: 15

Sec. 124.825. (A) As used in this section: 16

(1) "Cost-sharing requirement" means any expenditure 17  
required by or on behalf of an individual receiving health care 18  
benefits provided under section 124.82 of the Revised Code. 19  
"Cost-sharing requirement" includes deductibles, coinsurance, 20  
copayments, or similar charges. "Cost-sharing requirement" does 21  
not include premiums, balance billing amounts for non-network 22  
providers, or spending for noncovered services. 23

(2) "Step therapy protocol" has the same meaning as in 24  
section 3901.83 of the Revised Code. 25

(B) Notwithstanding section 3901.71 of the Revised Code or 26  
any other provision of the Revised Code, the health care 27  
benefits provided under section 124.82 of the Revised Code to 28  
state employees shall include coverage of both of the following, 29  
subject to division (E) of this section: 30

(1) All tobacco cessation medications approved by the 31  
United States food and drug administration; 32

(2) All forms of tobacco cessation services recommended by 33  
the United States preventive services task force, including 34  
individual, group, and telephone counseling and any combination 35  
thereof. 36

(C) None of the following conditions shall be imposed with 37  
respect to the coverage required by this section: 38

(1) Counseling requirements for tobacco cessation 39  
medication; 40

(2) Except as provided in division (C)(4) of this section, 41  
limits on the duration of services, including annual or lifetime 42  
limits on the number of covered attempts to quit using tobacco; 43

(3) Cost-sharing requirements; 44

(4) Prior authorization requirements, step therapy 45  
protocols, or any other utilization management requirements, 46  
except that prior authorization may be required for either of 47  
the following: 48

(a) Treatment that exceeds the duration recommended in the 49  
United States public health service clinical practice guidelines 50  
on treating tobacco use and dependence; 51

(b) Services associated with more than two attempts to 52  
quit using tobacco within a twelve-month period. 53

(D) The health care benefits provided under section 124.82 54  
of the Revised Code may cover tobacco cessation services in 55  
addition to the services that must be covered under this section 56  
or may exclude coverage of additional tobacco cessation 57  
services. 58

(E) The director of health shall adopt rules in accordance 59  
with Chapter 119. of the Revised Code that establish standards 60  
and procedures for approving the forms of tobacco cessation 61  
medications and services that must be covered under this 62  
section. The rules shall also establish standards and procedures 63  
for updating the approved forms of tobacco cessation medications 64  
and services that must be covered under this section when the 65  
approved forms are modified by the United States food and drug 66  
administration, United States public health service, or United 67  
States preventive services task force. 68

(F) Each insurance company or health plan providing health 69

care benefits under section 124.82 of the Revised Code to state 70  
employees shall do both of the following: 71

(1) Inform state employees of the coverage required by 72  
this section; 73

(2) Market the coverage required by this section to state 74  
employees. 75

**Sec. 3701.614.** (A) The department of health shall develop 76  
educational materials describing the health risks of lead-based 77  
paint and measures that may be taken to reduce those risks. 78

(B) As part of the home visiting services described in 79  
section 3701.61 of the Revised Code, each eligible family 80  
residing in a house, apartment, or other residence built before 81  
January 1, 1979, shall receive a copy of the educational 82  
materials described in this section. If the date on which the 83  
residence was built is unknown to the family or home visiting 84  
services provider, the family shall receive a copy of the 85  
educational materials. 86

(C) The educational materials developed and distributed 87  
under this section shall be culturally and linguistically 88  
appropriate for the families described in division (B) of this 89  
section. 90

**Sec. 3701.615.** (A) As used in this section: 91

(1) "Certified nurse-midwife," "certified nurse 92  
practitioner," and "clinical nurse specialist" have the same 93  
meanings as in section 4723.01 of the Revised Code. 94

(2) "Physician" means an individual authorized under 95  
Chapter 4731. of the Revised Code to practice medicine and 96  
surgery or osteopathic medicine and surgery. 97

(3) "Physician assistant" means an individual authorized 98  
under Chapter 4730. of the Revised Code to practice as a 99  
physician assistant. 100

(B) The department of health shall establish a grant 101  
program to address the provision of prenatal health care 102  
services to pregnant women on a group basis. The aim of the 103  
program is to increase the number of pregnant women who begin 104  
prenatal care early in their pregnancies and to reduce the 105  
number of infants born preterm. 106

(C) (1) An entity seeking to participate in the grant 107  
program shall apply to the department of health in a manner 108  
prescribed by the department. Participating entities may include 109  
the following: 110

(a) Medical practices, including those operated by or 111  
employing one or more physicians, physician assistants, 112  
certified nurse-midwives, certified nurse practitioners, or 113  
clinical nurse specialists; 114

(b) Health care facilities. 115

(2) To be eligible to participate in the grant program, an 116  
entity must demonstrate to the department that it can meet all 117  
of the following requirements: 118

(a) Has space to host groups of at least twelve pregnant 119  
women; 120

(b) Has adequate in-kind resources, including existing 121  
medical staff, to provide necessary prenatal health care 122  
services on both an individual and group basis; 123

(c) Provides prenatal care based on either of the 124  
following: 125

<u>(i) The centering pregnancy model of care developed by the</u>	126
<u>centering healthcare institute;</u>	127
<u>(ii) Another model of care acceptable to the department.</u>	128
<u>(d) Integrates health assessments, education, and support</u>	129
<u>into a unified program in which pregnant women at similar stages</u>	130
<u>of pregnancy meet, learn care skills, and participate in group</u>	131
<u>discussions;</u>	132
<u>(e) Meets any other requirements established by the</u>	133
<u>department.</u>	134
<u>(D) When distributing funds under the program, the</u>	135
<u>department shall give priority to entities that are both of the</u>	136
<u>following:</u>	137
<u>(1) Operating in areas of the state with high preterm</u>	138
<u>birth rates, including rural areas and Cuyahoga, Franklin,</u>	139
<u>Hamilton, and Summit counties;</u>	140
<u>(2) Providing care to medicaid recipients who are members</u>	141
<u>of the group described in division (B) of section 5163.06 of the</u>	142
<u>Revised Code.</u>	143
<u>(E) A participating entity may employ or contract with</u>	144
<u>licensed dental hygienists to educate pregnant women about the</u>	145
<u>importance of prenatal and postnatal dental care.</u>	146
<u>(F) The department may adopt rules as necessary to</u>	147
<u>implement this section. The rules shall be adopted in accordance</u>	148
<u>with Chapter 119. of the Revised Code.</u>	149
<b>Sec. 5162.20.</b> (A) The department of medicaid shall	150
institute cost-sharing requirements for the medicaid program.	151
The department shall not institute cost-sharing requirements in	152
a manner that does either of the following:	153

(1) Disproportionately impacts the ability of medicaid recipients with chronic illnesses to obtain medically necessary medicaid services;	154 155 156
(2) Violates section 5164.09 <u>or 5164.10</u> of the Revised Code.	157 158
(B) (1) No provider shall refuse to provide a service to a medicaid recipient who is unable to pay a required copayment for the service.	159 160 161
(2) Division (B) (1) of this section shall not be considered to do either of the following with regard to a medicaid recipient who is unable to pay a required copayment:	162 163 164
(a) Relieve the medicaid recipient from the obligation to pay a copayment;	165 166
(b) Prohibit the provider from attempting to collect an unpaid copayment.	167 168
(C) Except as provided in division (F) of this section, no provider shall waive a medicaid recipient's obligation to pay the provider a copayment.	169 170 171
(D) No provider or drug manufacturer, including the manufacturer's representative, employee, independent contractor, or agent, shall pay any copayment on behalf of a medicaid recipient.	172 173 174 175
(E) If it is the routine business practice of a provider to refuse service to any individual who owes an outstanding debt to the provider, the provider may consider an unpaid copayment imposed by the cost-sharing requirements as an outstanding debt and may refuse service to a medicaid recipient who owes the provider an outstanding debt. If the provider intends to refuse	176 177 178 179 180 181

service to a medicaid recipient who owes the provider an 182  
outstanding debt, the provider shall notify the recipient of the 183  
provider's intent to refuse service. 184

(F) In the case of a provider that is a hospital, the 185  
cost-sharing program shall permit the hospital to take action to 186  
collect a copayment by providing, at the time services are 187  
rendered to a medicaid recipient, notice that a copayment may be 188  
owed. If the hospital provides the notice and chooses not to 189  
take any further action to pursue collection of the copayment, 190  
the prohibition against waiving copayments specified in division 191  
(C) of this section does not apply. 192

(G) The department of medicaid may collaborate with a 193  
state agency that is administering, pursuant to a contract 194  
entered into under section 5162.35 of the Revised Code, one or 195  
more components, or one or more aspects of a component, of the 196  
medicaid program as necessary for the state agency to apply the 197  
cost-sharing requirements to the components or aspects of a 198  
component that the state agency administers. 199

Sec. 5164.10. (A) The medicaid program shall cover both of 200  
the following, subject to division (C) of this section: 201

(1) All tobacco cessation medications approved by the 202  
United States food and drug administration; 203

(2) All forms of tobacco cessation services recommended by 204  
the United States preventive services task force, including 205  
individual, group, and telephone counseling and any combination 206  
thereof. 207

(B) The department of medicaid shall not impose any of the 208  
following conditions with respect to the coverage required by 209  
this section: 210



<u>(1) Counseling requirements for tobacco cessation</u>	211
<u>medications;</u>	212
<u>(2) Except as provided in division (B) (4) of this section,</u>	213
<u>limits on the duration of services, including annual or lifetime</u>	214
<u>limits on the number of covered attempts to quit using tobacco;</u>	215
<u>(3) Cost-sharing requirements under section 5162.20 of the</u>	216
<u>Revised Code;</u>	217
<u>(4) Prior authorization requirements, step therapy</u>	218
<u>protocols as defined in section 5164.7512 of the Revised Code,</u>	219
<u>or any other utilization management requirements, except that</u>	220
<u>prior authorization may be required for either of the following:</u>	221
<u>(a) Treatment that exceeds the duration recommended in the</u>	222
<u>United States public health service clinical practice guidelines</u>	223
<u>on treating tobacco use and dependence;</u>	224
<u>(b) Services associated with more than two attempts to</u>	225
<u>quit using tobacco within a twelve-month period.</u>	226
<u>(C) The director of health shall adopt rules in accordance</u>	227
<u>with Chapter 119. of the Revised Code that establish standards</u>	228
<u>and procedures for approving the forms of tobacco cessation</u>	229
<u>medications and services that must be covered under this</u>	230
<u>section. The rules shall also establish standards and procedures</u>	231
<u>for updating the approved forms of tobacco cessation medications</u>	232
<u>and services that must be covered under this section when the</u>	233
<u>approved forms are modified by the United States food and drug</u>	234
<u>administration, United States public health service, or United</u>	235
<u>States preventive services task force.</u>	236
<u>(D) With respect to the coverage required by this section,</u>	237
<u>the department of medicaid shall do both of the following:</u>	238

<u>(1) Inform medicaid recipients about the coverage;</u>	239
<u>(2) Market the coverage to Medicaid recipients.</u>	240
<b>Sec. <del>5164.10</del> <u>5164.16</u>.</b> The medicaid program may cover one	241
or more state plan home and community-based services that the	242
department of medicaid selects for coverage. A medicaid	243
recipient of any age may receive a state plan home and	244
community-based service if the recipient has countable income	245
not exceeding two hundred twenty-five per cent of the federal	246
poverty line, has a medical need for the service, and meets all	247
other eligibility requirements for the service specified in	248
rules adopted under section 5164.02 of the Revised Code. The	249
rules may not require a medicaid recipient to undergo a level of	250
care determination to be eligible for a state plan home and	251
community-based service.	252
<b>Sec. <u>5164.17</u>.</b> <u>The medicaid program may cover tobacco</u>	253
<u>cessation services in addition to the services that must be</u>	254
<u>covered under section 5164.10 of the Revised Code or may exclude</u>	255
<u>coverage of additional tobacco cessation services.</u>	256
<b>Sec. 5167.12.</b> If prescribed drugs are included in the care	257
management system:	258
(A) Medicaid MCO plans may include strategies for the	259
management of drug utilization, but any such strategies are	260
subject to the limitations and requirements of this section and	261
the approval of the department of medicaid.	262
(B) A medicaid MCO plan shall not impose a prior	263
authorization requirement in the case of a drug to which all of	264
the following apply:	265
(1) The drug is an antidepressant or antipsychotic.	266

(2) The drug is administered or dispensed in a standard 267  
tablet or capsule form, except that in the case of an 268  
antipsychotic, the drug also may be administered or dispensed in 269  
a long-acting injectable form. 270

(3) The drug is prescribed by any of the following: 271

(a) A physician whom the medicaid managed care 272  
organization that offers the plan allows to provide care as a 273  
psychiatrist through its credentialing process; 274

(b) A psychiatrist who is practicing at a location on 275  
behalf of a community mental health services provider whose 276  
mental health services are certified by the department of mental 277  
health and addiction services under section 5119.36 of the 278  
Revised Code; 279

(c) A certified nurse practitioner, as defined in section 280  
4723.01 of the Revised Code, who is certified in psychiatric 281  
mental health by a national certifying organization approved by 282  
the board of nursing under section 4723.46 of the Revised Code; 283

(d) A clinical nurse specialist, as defined in section 284  
4723.01 of the Revised Code, who is certified in psychiatric 285  
mental health by a national certifying organization approved by 286  
the board of nursing under section 4723.46 of the Revised Code. 287

(4) The drug is prescribed for a use that is indicated on 288  
the drug's labeling, as approved by the federal food and drug 289  
administration. 290

(C) The department shall authorize a medicaid MCO plan to 291  
include a pharmacy utilization management program under which 292  
prior authorization through the program is established as a 293  
condition of obtaining a controlled substance pursuant to a 294  
prescription. 295

(D) Each medicaid managed care organization and medicaid MCO plan shall comply with sections 5164.091, 5164.10, 5164.7511, 5164.7512, and 5164.7514 of the Revised Code as if the organization were the department and the plan were the medicaid program.

**Section 2.** That existing sections 5162.20, 5164.105167.12, and 5167.125164.10 of the Revised Code are hereby repealed.

**Section 3.** (A) The Department of Medicaid may establish and administer a program to provide dental services to pregnant Medicaid recipients. If the program is established, all of the following shall apply:

(1) Medicaid recipients who are members of the group described in section 5163.06 of the Revised Code shall be eligible to receive two dental cleanings per year.

(2) The Department shall give priority to those Medicaid recipients residing in areas of the state with high preterm birth rates.

(3) The Department shall inform Medicaid recipients about the program and market the program to Medicaid recipients.

(B) The Department of Medicaid shall establish reimbursement rates for entities that educate Medicaid recipients about the importance of prenatal and postnatal dental care as part of the program described in section 3701.615 of the Revised Code, including reimbursement rates for all or part of the costs associated with developing and distributing educational materials related to the importance of prenatal and postnatal dental care.

**Section 4.** All items in this section are hereby appropriated as designated out of any moneys in the state

treasury to the credit of the designated fund. For all 325  
 appropriations made in this act, those in the first column are 326  
 for fiscal year 2020 and those in the second column are for 327  
 fiscal year 2021. The appropriations made in this act are in 328  
 addition to any other appropriations made for the FY 2020-FY 329  
 2021 biennium. 330

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	1	2	3	4	5
A	DOH DEPARTMENT OF HEALTH				
B	General Revenue Fund				
C	GRF	440474	Infant Vitality	\$	0 \$ 5,000,000
D	TOTAL GRF General Revenue Fund			\$	0 \$ 5,000,000
E	TOTAL ALL BUDGET FUND GROUPS			\$	0 \$ 5,000,000

INFANT VITALITY 332

Of the foregoing appropriation item 440474, Infant 333  
 Vitality, \$500,000 in fiscal year 2021 shall be used to provide 334  
 planning grants to help entities meet the requirements of 335  
 division (C) (2) of section 3701.615 of the Revised Code. 336

Of the foregoing appropriation item 440474, Infant 337  
 Vitality, \$4,500,000 in fiscal year 2021 shall be used in 338  
 accordance with section 3701.615 of the Revised Code. 339

**Section 5.** Within the limits set forth in this act, the 340  
 Director of Budget and Management shall establish accounts 341  
 indicating the source and amount of funds for each appropriation 342

made in this act, and shall determine the form and manner in 343  
which appropriation accounts shall be maintained. Expenditures 344  
from appropriations contained in this act shall be accounted for 345  
as though made in the main operating appropriations act of the 346  
133rd General Assembly. 347

The appropriations made in this act are subject to all 348  
provisions of the main operating appropriations act of the 133rd 349  
General Assembly that are generally applicable to such 350  
appropriations. 351

**Section 6.** That Section 333.10 of H.B. 166 of the 133rd 352  
General Assembly be amended to read as follows: 353

**Sec. 333.10.** 354

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1	2	3	4	5
A		MCD DEPARTMENT OF MEDICAID		
B	General Revenue Fund			
C	GRF 651425	Medicaid Program Support - State	\$ 164,132,342	\$ 170,223,643
D	GRF 651426	Positive Education Program Connections	\$ 2,500,000	\$ 2,500,000

E	GRF	651525	Medicaid Health Care Services			
F			State	\$	<del>4,153,141,174</del>	\$ 4,733,728,704
					<u>3,619,409,147</u>	
G			Federal	\$	<del>9,959,196,340</del>	\$ 11,152,542,781
					<u>10,595,514,006</u>	
H			Medicaid	\$	<del>14,112,337,514</del>	\$ 15,886,271,485
			Health Care			
			Services Total		<u>14,214,923,153</u>	
I	GRF	651526	Medicare Part	\$	490,402,102	\$ 533,290,526
			D			
J	GRF	651529	Brigid's Path	\$	500,000	\$ 500,000
			Pilot			
K	GRF	651533	Food Farmacy	\$	250,000	\$ 250,000
			Pilot Project			
L	TOTAL GRF		General Revenue Fund			
M			State	\$	<del>4,810,925,618</del>	\$ 5,440,492,873
					<u>4,277,193,591</u>	
N			Federal	\$	<del>9,959,196,340</del>	\$ 11,152,542,781
					<u>10,595,514,006</u>	
O			GRF Total	\$	<del>14,770,121,958</del>	\$ 16,593,035,654
					<u>14,872,707,597</u>	

P Dedicated Purpose Fund Group

Q	4E30	651605	Resident Protection Fund	\$	3,910,338	\$	4,013,000
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R	5AN0	651686	Care Innovation and Community Improvement Program	\$	53,435,797	\$	53,406,291
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S	5DL0	651639	Medicaid Services - Recoveries	\$	741,454,299	\$	781,970,233
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T	5DL0	651685	Medicaid Recoveries - Program Support	\$	40,351,245	\$	44,375,000
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U	5DL0	651690	Multi-system Youth Custody Relinquishment	\$	6,000,000	\$	12,000,000
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V	5FX0	651638	Medicaid Services - Payment Withholding	\$	12,000,000	\$	12,000,000
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W	5GF0	651656	Medicaid Services - Hospital Upper	\$	822,016,219	\$	887,150,856
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				Payment Limit	
X	5R20 651608	Medicaid Services - Long Term	\$	420,154,000	\$ 425,554,000
Y	5SC0 651683	Medicaid Services - Physician UPL	\$	7,520,000	\$ 7,645,000
Z	5TN0 651684	Medicaid Services - HIC Fee	\$	834,564,060	\$ 806,187,400
AA	6510 651649	Medicaid Services - Hospital Care Assurance Program	\$	249,167,065	\$ 168,310,123
AB	TOTAL DPF Dedicated Purpose Fund Group		\$	<del>3,205,573,023</del> <u>3,190,573,023</u>	\$ <del>3,232,611,903</del> <u>3,202,611,903</u>
AC	Holding Account Fund Group				
AD	R055 651644	Refunds and Reconciliation	\$	1,000,000	\$ 1,000,000
AE	TOTAL HLD Holding Account Fund Group		\$	1,000,000	\$ 1,000,000
AF	Federal Fund Group				

AG 3ER0 651603	Medicaid and Health Transformation Technology	\$	48,031,056	\$	48,340,000
AH 3F00 651623	Medicaid Services - Federal	\$	<del>6,563,381,020</del> <u>6,740,419,278</u>	\$	6,596,507,934
AI 3F00 651624	Medicaid Program Support - Federal	\$	516,667,497	\$	527,369,363
AJ 3FA0	Health Care Grants - Federal	\$	11,988,670	\$	12,000,000
AK 3G50 651655	Medicaid Interagency Pass Through	\$	225,701,597	\$	225,701,597
AL TOTAL FED	Federal Fund Group	\$	<del>7,365,769,840</del> <u>7,542,808,098</u>	\$	7,409,918,894
AM TOTAL ALL BUDGET FUND GROUPS		\$	<del>25,342,464,821</del> <u>25,607,088,718</u>	\$	<del>27,236,566,451</del> <u>27,206,566,451</u>

**Section 7.** That existing Section 333.10 of H.B. 166 of the 133rd General Assembly is hereby repealed. 356  
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