5101:3-1-09 **Medicaid co-payment program [except for ~~medicaid consumers enrolled in the~~ services provided through a medicaid managed health care program].**

~~Requirements~~ Except when billing for prescription drugs defined in Chapter 5101:3-9 of the Administrative Code, requirements in this rule regarding the medicaid co-payment program do not ~~include~~ apply to services provided to medicaid consumers who are enrolled in a medicaid managed health care program. Other co-payment~~Co-payment~~ program requirements specific to ~~recipients~~consumers enrolled in medicaid managed health care programs are set forth in ~~accordance with~~ Chapter 5101:3-26 of the Administrative Code. ~~Consumers eligible for the disability medical assistance program as defined in rule 5101:3-23-01 of the Administrative Code will be subject to co-payments in accordance with this rule.~~

(A) Beginning on and after January 1, 2006, the Ohio department of job and family services (ODJFS) shall institute a co-payment program under medicaid. The co-payment program shall establish a co-payment requirement for only dental services, vision services, non-emergency emergency department services, and prescription drugs, other than generic drugs.

(B) The co-payment program shall provide for all of the following with regard to any providers participating in the medicaid program:

(1) No provider may deny services to a consumer who is eligible for the services on account of the consumer's inability to pay the medicaid co-payment. Consumers who are unable to pay their medicaid co-payment may declare their inability to pay for services or medication and receive their services or medication without paying their medicaid co-payment amount.

(2) Paragraph (B)(1) of this rule shall not be considered to do either of the following with regard to a medicaid consumer who is unable to pay a required medicaid co-payment:

(a) Relieve the medicaid consumer from the obligation to pay a medicaid co-payment;

(b) Prohibit the provider from attempting to collect an unpaid medicaid co-payment.

(3) No provider shall waive a medicaid consumer's obligation to pay the provider a medicaid co-payment.

(4) No provider or drug manufacturer, including the manufacturer's representative, employee, independent contractor, or agent, shall pay any co-payment on

behalf of a medicaid consumer.

(5) If it is the routine business practice of the provider to refuse service to any individual who owes an outstanding debt to the provider, the provider may consider an unpaid medicaid co-payment imposed by the co-payment program as an outstanding debt and may refuse service to a medicaid consumer who owes the provider an outstanding debt. If the provider intends to refuse service to a medicaid consumer who owes the provider an outstanding debt, the provider shall notify the individual of the provider's intent to refuse services.

(a) A provider's decision to continue rendering services to a medicaid consumer who has an unpaid co-payment shall not be considered to be out of compliance with paragraph (B)(3) of this rule.

(b) Charges which are prohibited in accordance with paragraph (A) of rule 5101:3-1-60 of the Administrative Code may not be considered an outstanding debt of a medicaid consumer.

(C) Exclusions to the co-payment requirement in accordance with the provisions of 42 C.F.R. 447.53 for dental, vision, non-emergency emergency department services and prescription medications include:

(1) Children. Services furnished to consumers who are under the age of twenty-one are excluded from co-payment obligations.

(a) For pharmacy claims, the provisions of rule 5101:3-9-09 of the Administrative Code also apply.

(b) For all other claims, the provider may use the consumer's date of birth to identify if this exclusion applies; or the provider may submit the claim to the department, during the adjudication of the claim the department will identify those consumers under the age of twenty-one through the department's recipient master file, and will not reduce the medicaid payment by the co-payment amount.

(2) Pregnant women. With the exception of paragraph (C)(2)(a) of this rule, all services provided to pregnant women during their pregnancy and the post partum period are excluded from a co-payment. The post-partum period is the immediate post-partum period which begins on the last day of pregnancy and extends through the end of the month in which the sixty day period following termination of pregnancy ends.

(a) Routine eye examinations and the dispensation of eyeglasses during a consumer's pregnancy or post partum period are subject to the medicaid co-payment.

(b) For pharmacy claims, the provisions of rule 5101:3-9-09 of the Administrative Code also apply.

(c) For all other claims, the provider may accept the consumer's self-declaration of their pregnancy or post partum period or the practice's medical records to determine if the pregnancy/post partum co-payment exclusion applies. If the provider reports on the claim ~~as specified in the ODJFS billing instructions (rev. 2/2008 and located on the internet at http://emanuals.odjfs.state.oh.us/emanuals)~~ that the pregnancy/post partum exclusion applies, the medicaid payment will not be reduced by the medicaid co-payment amount.

(3) Institutionalized consumers. Services or medications furnished to consumers receiving services or medications who are residents in a nursing facility (NF) or an intermediate care facility for the mentally retarded (ICF/MR) are excluded from co-payment.

(a) For pharmacy claims, the provisions of rule 5101:3-9-09 of the Administrative Code also apply.

(b) For all other claims, the provider may determine if the institutional co-payment exclusion applies by obtaining the consumer's address to validate whether the consumer resides in a NF or ICF/MR; or the provider may submit the claim to the department, and during the adjudication of the claim the department will identify those consumers who reside in a NF or ICF/MR through the department's recipient master file, and will not reduce the medicaid payment by the co-payment amount.

(4) Emergency. Emergency services are excluded from co-payment when they are provided in a hospital, clinic, office, or other facility that is equipped to furnish the required care, after the sudden onset of a medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain) that the absence of immediate medical attention could reasonably be expected to result in placing the patient's health in serious jeopardy; serious impairment to bodily functions, or serious dysfunction of any bodily part or organ.

(a) Except for non-emergency emergency department services as set forth in rule 5101:3-2-21.1 of the Administrative Code, hospital services are excluded from co-payments.

(b) For pharmacy claims, the provisions of rule 5101:3-9-09 of the Administrative Code also apply.

(c) For all other claims, the provider may determine on the basis of their professional judgment if the emergency co-payment exclusion applies. If the provider reports on the claim ~~as specified in the ODJFS billing instructions (rev. 2/2008)~~ that the emergency co-payment exclusion applies, the medicaid payment will not be reduced by the medicaid co-payment amount.

(5) Family planning (~~Pregnancy~~pregnancy prevention/contraceptive management). Any service identified by the department as a pregnancy prevention/contraceptive management service in accordance with rule 5101:3-21-02 of the Administrative Code and provided to an individual of child-bearing age is not subject to a co-payment.

(a) For pharmacy claims, the provisions of rule 5101:3-9-09 of the Administrative Code also apply.

(b) For all other claims, the provider may determine on the basis of his or her professional judgment that the consumer is receiving pregnancy prevention/contraceptive management services and that the co-payment exclusion applies. If the provider reports ~~on the claim as specified in the ODJFS billing instructions (rev. 2/2008 and located on the internet at http://emanuals.odjfs.state.oh.us/emanuals)~~ that the pregnancy prevention/contraceptive management co-payment exclusion applies, or itemizes a service identified as a family planning service in the ODJFS claims processing system, the medicaid payment will not be reduced by the medicaid co-payment amount.

(6) Hospice. Consumers receiving services for hospice care are excluded from co-payment obligations.

(a) For pharmacy claims, the provisions of rule 5101:3-9-09 of the Administrative Code also apply.

(b) For all other claims, the provider may accept the consumer's self-declaration that he or she is enrolled in hospice or check the

information stamped on the Ohio medicaid card in accordance with rule 5101:3-56-03 of the Administrative Code to determine if the hospice co-payment exclusion applies. If the provider reports ~~on the claim as specified in the ODJFS billing instructions (rev. 2/2008)~~ that the consumer is enrolled in hospice, the medicaid payment will not be reduced by the medicaid co-payment amount.

(D) In addition to the exclusions in ~~section~~paragraph (C) of this rule, medicare cross-over claims defined in accordance with rule 5101:3-1-05 of the Administrative Code will not be subject to medicaid co-payments.

(E) Information regarding co-payment amounts for dental, vision, non-emergency emergency department services and prescription services, can be found in the following Ohio Administrative Code rules:

(1) Co-payment amounts for dental services are determined in accordance with rule 5101:3-5-01 of the Administrative Code.

(2) Co-payment amounts for vision services are determined in accordance with rule 5101:3-6-01 of the Administrative Code.

(3) Co-payment amounts for non-emergency emergency department services are determined in accordance with rule 5101:3-2-21.1 of the Administrative Code.

(4) Co-payment amounts for prescription services are determined in accordance with rule 5101:3-9-09 of the Administrative Code.

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Certification

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