5101:3-1-09 **Co-payments.**

This rule sets forth requirements regarding co-payments by consumers for medicaid-covered services.

(A) Certain medicaid services are subject to consumer co-payments. Information regarding these services and co-payment amounts can be found in the following Administrative Code rules:

(1) Co-payments for dental services are described in rule 5101:3-5-01 of the Administrative Code.

(2) Co-payments for vision services are described in rule 5101:3-6-01 of the Administrative code.

(3) Co-payments for non-emergency emergency department services are described in rule 5101:3-2-21.1 of the Administrative Code.

(4) Co-payments for pharmacy services are described in rule 5101:3-9-09 of the Administrative Code.

(5) Co-payment requirements for services provided through a medicaid managed care plan are described in Chapter 5101:3-26 of the Administrative Code.

(B) With regard to the application of consumer payments, the following apply:

(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 able 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. With regard to a consumer who is unable to pay a required medicaid co-payment in accordance with this paragraph, this does not:

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

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

(2) No provider shall waive a medicaid consumer's obligation to pay a provider a medicaid co-payment except when paragraph (A)(5) of this rule applies.

(3) 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.

(4) 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 as an outstanding debt and 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. In determining outstanding debt of a medicaid consumer, the following apply:

(a) A provider's decision to continue rendering services to a medicaid consumer who has an unpaid co-payment shall not be considered an outstanding debt of a medicaid consumer.

(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) The following consumers are excluded from the co-payment requirement for dental, vision, non-emergency emergency department services and pharmacy services:

(1) Children and youth under the age of twenty-one.

(a) The provider may use the consumer's date of birth to identify if this exclusion applies; or

(b) The provider may submit the claim to the department. During adjudication of the claim, if the department identifies the consumer as a child or youth under the age of twenty-one, the department will not reduce the medicaid payment by the co-payment amount.

(2) Pregnant women during pregnancy and women with post-partum coverage as defined in Chapter 5101:1-40 of the Administrative Code. The following also apply:

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

(b) For all other claims, the provider may accept the consumer's self-declaration of her pregnancy if the pregnancy/ post-partum co-payment exclusion applies. If the provider reports this exclusion applies, the medicaid payment will not be reduced by the co-payment amount.

(3) Residents of a nursing facility (NF) or intermediate care facility for the mentally retarded (ICF/MR).

(a) The provider may use the consumer's address to validate whether the consumer resides in a NF or ICF/MR; or

(b) The consumer may submit the claim to the department. During the adjudication of the claim, if the department identifies the consumer as a resident of a NF or ICF/MR, the department will not reduce the medicaid payment by the co-payment amount.

(4) Consumers receiving 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;

(5) Consumers receiving family planning services defined as pregnancy/contraception management services in rule 5101:3-21-02 of the Administrative Code are excluded from co-payment when these services are provided to an individual of child-bearing age. The provider may determine on the basis of his or her professional judgment that the consumer is receiving pregnancy prevention/ contraceptive services and the co-payment exclusion applies.

(6) Consumers receiving hospice services are excluded from co-payment obligations. The provider may accept the consumer's self-declaration that he or she is enrolled in hospice. If the provider reports that the consumer is enrolled in hospice, the medicaid payment will not be reduced by the co-payment amount.

(D) Medicare cross-over claims as defined in rule 5101:3-1-05 of the Administrative Code are not subject to medicaid co-payments.

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