

**Rule Summary and Fiscal Analysis (Part A)****Department of Job and Family Services**

Agency Name

**Division of Medical Assistance**

Division

**Nancy Van Kirk**

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**5101:3-1-60**

Rule Number

**AMENDMENT**

TYPE of rule filing

Rule Title/Tag Line

**Medicaid reimbursement.****RULE SUMMARY**

1. Is the rule being filed consistent with the requirements of the RC 119.032 review? **No**

2. Are you proposing this rule as a result of recent legislation? **Yes**

Bill Number: **HB119**General Assembly: **127**Sponsor: **Rep. Dolan**

3. Statute prescribing the procedure in accordance with the agency is required to adopt the rule: **119.03**

4. Statute(s) authorizing agency to adopt the rule: **5111.0112, 5111.02**

5. Statute(s) the rule, as filed, amplifies or implements: **5111.01, 5111.0112, 5111.02, 5111.021**

6. State the reason(s) for proposing (i.e., why are you filing,) this rule:

This rule is being proposed for amendment to incorporate Medicaid maximum fee increases budgeted in AM. Sub. H.B. 119, 127th General Assembly, because the dollars appropriated to JFS in the 600-525 account, found in section 309.10 of H.B. 119, assume the expenditures with these changes, and to decrease the Medicaid reimbursement amount for oxygen concentrators.

7. If the rule is an AMENDMENT, then summarize the changes and the content of the proposed rule; if the rule type is RESCISSION, NEW or NO CHANGE, then summarize the content of the rule:

This rule sets forth the reimbursement policies for all professional Medicaid providers. The rates paid to providers who bill using Current Procedural Terminology (CPT) codes are contained in Appendix DD to this rule. The proposed amendment to this rule changes the reimbursement rate for certain CPT codes.

The rates for some CPT codes are proposed to go up. Others are proposed to go down, and the rates for many are proposed to remain unchanged. The aggregate impact, however, is a three percent increase, effective for dates of service on or after July 1, 2008.

Significant rate increases are proposed for new and established office visits, preventive medicine visits, consultations, psychiatry, and neonatal and critical care services. The rates proposed for reductions are those currently in excess of 100 percent of the Medicare rate. New ceilings for these codes are established at 100 percent of the Medicare rate.

A three percent increase in the rates paid to Ambulatory Surgery Centers (ASCs) is proposed. The proposed new payment rates for each of the nine ASC groups are contained in paragraph (J)(4) of the rule.

A three percent increase for the following community providers is proposed: free-standing dialysis clinics, transportation services, and dental services.

A fee increase for the labor component of repairs to durable medical equipment (DME) is proposed. DME repairs are billed using two Healthcare Common Procedure Coding System (HCPCS) codes. These codes will be increased from \$9.00 to \$11.00 per 15-minute unit.

An increase for the vaccine administration rate for vaccinations covered under the federal vaccines for children (VFC) program is proposed. The rate is proposed to increase from \$5.00 to \$10.00.

Also for effective dates on or after July 1, 2008, the maximum reimbursement rate for persons in long term care facilities for single and dual port oxygen concentrators (HCPCS codes E1390 and E1391) for the fee for service Medicaid program is being reduced to \$97.50 per month, down from \$178.56 per month. This reduction, per rule 5101:3-10-13(E)(5), will also result in a private residence maximum rate of \$105.30 per month, down from \$192.84 per month.

8. If the rule incorporates a text or other material by reference and the agency claims the incorporation by reference is exempt from compliance with sections

121.71 to 121.74 of the Revised Code because the text or other material is **generally available** to persons who reasonably can be expected to be affected by the rule, provide an explanation of how the text or other material is generally available to those persons:

This rule incorporates one or more references to another rule or rules of the Ohio Administrative Code (OAC). This rule is not applicable to any incorporation by reference to another OAC rule or rules because such reference is exempt from compliance with ORC 121.71 to 121.74 pursuant to to 121.76(A)(3).

9. If the rule incorporates a text or other material by reference, and it was **infeasible** for the agency to file the text or other material electronically, provide an explanation of why filing the text or other material electronically was infeasible:

Not applicable

10. If the rule is being **rescinded** and incorporates a text or other material by reference, and it was **infeasible** for the agency to file the text or other material, provide an explanation of why filing the text or other material was infeasible:

*Not Applicable.*

11. If **revising** or **refiling** this rule, identify changes made from the previously filed version of this rule; if none, please state so:

The changes from the previously filed version of the rule are to the RSFA part B. The RSFA part B had to be replaced because it was not in the correct format. As a result, revisions also became necessary in order to address all required components associated with the RSFA part B.

12. 119.032 Rule Review Date: **11/1/2010**

(If the rule is not exempt and you answered NO to question No. 1, provide the scheduled review date. If you answered YES to No. 1, the review date for this rule is the filing date.)

NOTE: If the rule is not exempt at the time of final filing, two dates are required: the current review date plus a date not to exceed 5 years from the effective date for Amended rules or a date not to exceed 5 years from the review date for No Change rules.

**FISCAL ANALYSIS**

13. Estimate the total amount by which *this proposed rule* would **increase/decrease** either **revenues /expenditures** for the agency during the current biennium (in dollars): Explain the net impact of the proposed changes to the budget of your agency/department.

This will increase expenditures.

\$3,191,488.00

The total estimated cost for the proposed amendment to this rule would be \$9,141,488.00 for the current Medicaid biennium budget for the community provider fee increase and the detail is set forth below:

The estimated cost for the proposed amendment to this rule for Medicaid professional providers billing CPT codes would be \$6,004,899.00 for the current biennium;

The estimated cost for the proposed amendment to this rule for the increase in the vaccination administration rate for vaccines covered under the federal vaccination for children program would be \$226,370.00 for the current biennium;

The estimated cost for the proposed amendment to this rule for transportation services would be \$1,436,468.00 for the current biennium;

The estimated cost for the proposed amendment to this rule for dental services would be \$1,296,165.00 for the current biennium;

The estimated cost for the proposed amendment to this rule for free-standing dialysis clinics would be \$140,679.00 for the current biennium;

The estimated cost for the proposed amendment to this rule for surgical procedures performed in an Ambulatory Surgery Center (ASC) would be \$68,369.00 for the current biennium; and

The estimated cost for the proposed amendment to this rule for the providers of durable medical equipment (DME) and medical supplies would be \$18,536.00 for the current biennium.

The Department estimates that its expenditures will decrease by approximately \$6,000,000.00 during the current biennium as a result of the changes in oxygen reimbursement as a result of this filing.

14. Identify the appropriation (by line item etc.) that authorizes each expenditure necessitated by the proposed rule:

600-525

15. Provide a summary of the estimated cost of compliance with the rule to all directly affected persons. When appropriate, please include the source for your information/estimated costs, e.g. industry, CFR, internal/agency:

There would be no new cost of compliance with the proposed amendments to this rule. However, providers of oxygen services, and any providers billing any service where the Medicaid amount has decreased will receive a lesser payment. The fiscal impact of the lesser oxygen concentrator payment will be provider specific and be based on each providers current business model for the delivery of oxygen concentrator services.

16. Does this rule have a fiscal effect on school districts, counties, townships, or municipal corporations? **Yes**

You must complete Part B of the Rule Summary and Fiscal Analysis in order to comply with Am. Sub. S.B. 33 of the 120th General Assembly.

17. Does this rule deal with environmental protection or contain a component dealing with environmental protection as defined in R. C. 121.39? **No**

**Rule Summary and Fiscal Analysis (Part B)**

1. Does the Proposed rule have a fiscal effect on any of the following?

(a) School Districts	(b) Counties	(c) Townships	(d) Municipal Corporations
No	Yes	Yes	Yes

2. Please provide an estimate in dollars of the cost of compliance with the proposed rule for school districts, counties, townships, or municipal corporations. If you are unable to provide an estimate in dollars, please provide a written explanation of why it is not possible to provide such an estimate.

The department is unable to determine the fiscal impact on a county, township or municipal corporation that is also a DME provider. The fiscal impact of the decreased reimbursement rates for oxygen concentrators will be provider-specific and based on each provider's current business model for the delivery of oxygen concentrator services, thus the fiscal impact cannot be quantified by the department.

3. If the proposed rule is the result of a federal requirement, does the proposed rule exceed the scope and intent of the federal requirement? **No**

4. If the proposed rule exceeds the minimum necessary federal requirement, please provide an estimate of, and justification for, the excess costs that exceed the cost of the federal requirement. In particular, please provide an estimate of the excess costs that exceed the cost of the federal requirement for (a) school districts, (b) counties, (c) townships, and (d) municipal corporations.

*Not Applicable.*

5. Please provide a comprehensive cost estimate for the proposed rule that includes the procedure and method used for calculating the cost of compliance. This comprehensive cost estimate should identify all of the major cost categories including, but not limited to, (a) personnel costs, (b) new equipment or other capital costs, (c) operating costs, and (d) any indirect central service costs.

The maximum reimbursement rate for persons in long term care facilities for single and dual port oxygen concentrators for the fee for service Medicaid program is being reduced to \$97.50 per month, down from \$178.56 per month. This reduction, per rule 5101:3-10-13(E)(5), will also result in a private residence maximum rate of

\$105.30 per month, down from \$192.74 per month.

(a) Personnel Costs

The Department is unable to determine the impact on personnel costs as result of the decreased oxygen concentrator reimbursement rates. However, to the extent that a county, township or municipal corporation that is also a DME provider chooses to reduce the portion of their business associated with the provision of oxygen concentrator services to Medicaid consumers, there could be a corresponding reduction in the amount of staffing required which, other things being equal, would translate into reduced personnel costs for the enterprise. Conversely, given that the demand for oxygen concentrator services is anticipated to remain constant, and to the extent that a county, township or municipal corporation which is also a DME provider chooses to attempt to increase their Medicaid oxygen concentrator business in reaction to other providers choosing to reduce their Medicaid market share, there could be an actual increase in required staffing and personnel costs. The actual amount of any such reductions or increases in personnel costs would be provider-specific and cannot be quantified by the Department.

(b) New Equipment or Other Capital Costs

The Department is unable to determine the direct impact on equipment/ capital costs as a result of the decreased oxygen concentrator reimbursement rates. However, to the extent that a county, township or municipal corporation that is also a DME provider chooses to reduce the portion of their business associated with the provision of oxygen concentrator services to Medicaid consumers, there could be a corresponding reduction in the amount of equipment purchased, specifically oxygen concentrators, which, other things being equal, would translate into reduced equipment/ capital costs for the enterprise. Conversely, given that the demand for oxygen concentrator services is anticipated to remain constant, and to the extent that a county, township or municipal corporation which is also a DME provider chooses to attempt to increase their Medicaid oxygen concentrator business in reaction to other providers choosing to reduce their Medicaid market share, there could be an actual increase in the purchase of equipment or in capital costs. The actual amount of any such reductions or increases in equipment or capital costs would be provider-specific and cannot be quantified by the Department.

(c) Operating Costs

The Department is unable to determine the direct impact on operating costs as a result of the decreased oxygen concentrator reimbursement rates. However,

to the extent that a county, township or municipal corporation that is also a DME provider chooses to reduce the portion of their business associated with the provision of oxygen concentrator services to Medicaid consumers, there could be a corresponding reduction in operating costs for the enterprise. Conversely, given that the demand for oxygen concentrator services is anticipated to remain constant, and to the extent that a county, township or municipal corporation which is also a DME provider chooses to attempt to increase their Medicaid oxygen concentrator business in reaction to other providers choosing to reduce their Medicaid market share, there could be an actual increase in operating costs. The actual amount of any such reductions or increases in operating costs would be provider-specific and cannot be quantified by the Department.

(d) Any Indirect Central Service Costs

The Department is unable to determine the direct impact on indirect costs as a result of the decreased oxygen concentrator reimbursement rates. However, to the extent that a county, township or municipal corporation that is also a DME provider chooses to reduce the portion of their business associated with the provision of oxygen concentrator services to Medicaid consumers, there could be a corresponding reduction in indirect costs for the enterprise. Conversely, given that the demand for oxygen concentrator services is anticipated to remain constant, and to the extent that a county, township or municipal corporation which is also a DME provider chooses to attempt to increase their Medicaid oxygen concentrator business in reaction to other providers choosing to reduce their Medicaid market share, there could be an actual increase in operating costs. The actual amount of any such reductions or increases in operating costs would be provider-specific and cannot be quantified by the Department.

(e) Other Costs

The Department is unable to determine the direct impact on other costs as a result of the decreased oxygen concentrator reimbursement rates. However, to the extent that a county, township or municipal corporation that is also a DME provider chooses to reduce the portion of their business associated with the provision of oxygen concentrator services to Medicaid consumers, there could be a corresponding reduction in the amount of indirect costs for the enterprise. Conversely, given that the demand for oxygen concentrator services is anticipated to remain constant, and to the extent that a county, township or municipal corporation which is also a DME provider chooses to attempt to increase their Medicaid oxygen concentrator business in reaction to other providers choosing to reduce their Medicaid market share, there could



be an actual increase in other costs. The actual amount of any such reductions or increases in other costs would be provider-specific and cannot be quantified by the Department.

6. Please provide a written explanation of the agency's and the local government's ability to pay for the new requirements imposed by the proposed rule.

There are no new requirements imposed on counties, townships or municipal corporations. However, DME providers will be receiving decreased reimbursement rates for oxygen concentrator services. To the extent that a county, township or municipal corporation that is also a DME provider chooses to reduce their Medicaid market share, there could be a corresponding change in their revenues and expenses. Conversely, given that the demand for oxygen concentrator services is anticipated to remain constant, and to the extent that a county, township or municipal corporation which is also a DME provider chooses to attempt to increase their Medicaid oxygen concentrator business in reaction to other providers choosing to reduce their Medicaid market share, there could be an actual offsetting change in the revenues and expenses. The actual amount of any such reductions or increases in revenues or expenses would be provider-specific and cannot be quantified by the Department.

7. Please provide a statement on the proposed rule's impact on economic development.

To the extent that a county, township or municipal corporation that is also a DME provider chooses to reduce the portion of their business associated with the provision of oxygen concentrator services to Medicaid consumers, there could be a corresponding detrimental impact on economic development in that county, township or municipality. Conversely, given that the demand for oxygen concentrator services is anticipated to remain constant, and to the extent that a county, township or municipal corporation which is also a DME provider chooses to attempt to increase their Medicaid oxygen concentrator business in reaction to other providers exiting the market, there could be an actual increase in economic development in that county, township or municipality as a result of the decreased reimbursement rate. More generally, it is estimated revenues will decrease by \$6,000,000.00 for the entire state of Ohio annually for oxygen concentrator services provided by DME providers. The actual amount of any such increase or decrease in economic development which might occur as a result of the proposed rule change is specific to individual counties, townships and municipalities and cannot be quantified by the Department.