

5101:3-2-08.1 **Assessment rates.**

The provisions of this rule are applicable for the program ~~year~~ year(s) specified in this rule that ends in calendar year 2009 for all hospitals as defined under section 5112.01 of the Revised Code.

(A) Applicability.

The requirements of this rule apply as long as the United States centers for medicare and medicaid services (CMS) determines that the assessment imposed under section 5112.06 of the Revised Code is a permissible health care related tax. Whenever the Ohio department of job and family services is informed that the assessment is an impermissible health care-related tax, the department shall promptly refund to each hospital the amount of money currently in the hospital care assurance match fund that has been paid by the hospital, plus any investment earnings on that amount.

(B) The program years to which this rule applies are identified in paragraphs (B)(1) and (B)(2) of this rule. When the department is notified by the centers for medicare and medicaid services that an additional disproportionate share allotment is available for a prior program year, the department may amend the assessment rates for the prior program year.

(1) The assessment rates applicable to the program year that ends in calendar year 2010 are specified in paragraph (C) of this rule.

(2) The revised assessment rates applicable to the program year that ends in calendar year 2009 are specified in paragraph (D) of this rule.

~~(B)~~(C) Calculation of assessment amounts.

The calculations described in this rule will be based on cost-reporting data described in rule 5101:3-2-23 of the Administrative Code that reflect the most recent completed interim settled medicaid cost report (JFS 02930) for all hospitals. For non-medicaid participating hospitals, the calculations shall be based on the most recent as-filed medicare cost report.

The assessment is calculated as follows:

(1) Determine each hospital's adjusted total facility costs as the amount calculated in paragraph (A)(18) of rule 5101:3-2-08 of the Administrative Code.

(2) For hospitals with adjusted total facility costs, as described in paragraph ~~(B)~~(1) (C)(1) of this rule, that are less than or equal to ~~\$216,374,000~~\$216,373,400, multiply the hospital's adjusted total facility costs as described in paragraph ~~(B)~~(1) (C)(1) of this rule by ~~0.0103380~~0.00975835. The product will be each

hospital's assessment amount. For hospitals with adjusted total facility costs, as described in paragraph ~~(B)(1)~~ (C)(1) of this rule, that are greater than ~~\$216,374,000~~\$216,373,400, multiply a factor of ~~0.0103380~~0.00975835 times the hospital's adjusted total facility costs as described in paragraph ~~(B)(1)~~ (C)(1) of this rule, up to ~~\$216,374,000~~\$216,373,400. Multiply a factor of ~~0.00738093~~0.00588010 times the hospital's adjusted total facility costs as described in paragraph ~~(B)(1)~~ (C)(1) of this rule, that are in excess of ~~\$216,374,000~~\$216,373,400. The sum of the two products will be each hospital's assessment amount.

(3) The assessment amounts calculated in paragraph ~~(B)(2)~~ (C)(2) of this rule are subject to adjustment under the provisions of paragraph ~~(D)~~ (F) of this rule.

(D) For the program year specified in paragraph (B)(2) of this rule, the assessment rates specified in rule 5101:3-2-08.1 of the Administrative Code, effective August 13, 2009 are revised in paragraphs (D)(1) to (D)(3) of this rule.

(1) The original adjusted total facility cost threshold of \$216,374,000 is unchanged.

(2) The original tier one assessment rate of 0.010338 is increased to 0.01040209.

(3) The original tier two assessment rate of 0.00738093 is increased to 0.00738107.

~~(C)~~(E) Determination of intergovernmental transfer amounts.

The department may require governmental hospitals, as described in paragraph (A)(2) of rule 5101:3-2-08 of the Administrative Code, to make intergovernmental transfers each program year.

The department shall notify each governmental hospital of the amount of the intergovernmental transfer it is required to make during the program year.

Each governmental hospital shall make intergovernmental transfers in periodic installments, executed by electronic funds transfer.

~~(D)~~(F) Notification and reconsideration procedures.

(1) The department shall mail by certified mail, return receipt requested, the results of the determinations made under paragraph ~~(B)~~ (C) of this rule to each hospital. If no hospital submits a request for reconsideration as described in this rule, the preliminary determinations constitute the final reconciliation of the amounts that each hospital must pay under this rule.

(2) Not later than fourteen days after the department mails the preliminary

determinations as described in paragraph ~~(B)~~ (C) of this rule, any hospital may submit to the department a written request for reconsideration of the preliminary determination made under paragraph ~~(B)~~ (C) of this rule. The request must be accompanied by written materials setting forth the basis for the reconsideration.

If one or more hospitals submit such a request, the department shall hold a public hearing in Columbus, Ohio not later than thirty days after the preliminary determinations have been mailed by the department for the purpose of reconsidering its preliminary determinations. The department shall mail written notice of the date, time, and place of the hearing to every hospital at least ten days before the date of the hearing.

On the basis of the evidence submitted to the department or presented at the public hearing, the department shall reconsider and may adjust the preliminary determinations. The result of the reconsideration is the final reconciliation of the amounts that each hospital must pay under the provisions of this rule.

- (3) The department shall mail each hospital written notice of the amount it must pay under the final reconciliation as soon as practical. Any hospital may appeal the amount it must pay to the court of common pleas of Franklin county.
- (4) In the course of any program year, the department may adjust the assessment rate defined in paragraph ~~(B)~~ (C) of this rule or adjust the amount of the intergovernmental transfers required under paragraph ~~(C)~~ (E) of this rule, and, as a result of the adjustment, adjust each hospital's assessment and intergovernmental transfer, to reflect refinements made by the CMS during that program year.

Effective: 12/25/2010

R.C. 119.032 review dates: 09/23/2010 and 12/01/2015

CERTIFIED ELECTRONICALLY

Certification

12/15/2010

Date

Promulgated Under: 119.03
Statutory Authority: 5111.02, 5112.03, 5112.06
Rule Amplifies: 5111.02, 5111.021, 5112.03, 5112.06
Prior Effective Dates: 7/1/94, 2/27/95 (Emer), 5/18/95, 6/26/96 (Emer),
8/13/96, 7/24/97 (Emer), 8/21/97 (Emer), 11/1/97,
6/26/98 (Emer), 9/1/98, 4/16/99 (Emer), 6/10/99
(Emer), 8/26/99, 7/16/00 (Emer), 7/18/00 (Emer),
9/28/00, 8/2/01, 7/1/02 (Emer), 9/19/02, 7/28/03,
7/1/04, 7/22/05, 10/27/06 (Emer), 11/30/06, 9/17/07,
8/3/08, 8/13/09