

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

Agency Name

Division of Medical Assistance

Division

Nancy Van Kirk

Contact

**30 E Broad St 31st Floor ODJFS Office of Legal
Services Columbus OH 43215-3414**

Agency Mailing Address (Plus Zip)

614-466-4605

Phone

614-752-8298

Fax

5101:3-2-08.1

Rule Number

AMENDMENT

TYPE of rule filing

Rule Title/Tag Line

Assessment rates.**RULE SUMMARY**

1. Is the rule being filed consistent with the requirements of the RC 119.032 review? **Yes**

2. Are you proposing this rule as a result of recent legislation? **No**

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: **5111.02, 5112.03, 5112.06**

5. Statute(s) the rule, as filed, amplifies or implements: **5111.02, 5111.021, 5112.03, 5112.06**

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

This rule is being proposed for amendment in order to comply with RC 119.032 five year rule review regulations, to update the assessment rates that fund the Hospital Care Assurance Program for the 2010 program year (October 1, 2009 - September 30, 2010) and to make an additional assessment for the 2009 program year (October 1, 2008 - September 30, 2009).

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 assessment rates for the Hospital Care Assurance Program. The changes to the rule are as follows: Paragraph (B) specifies which program year the assessment applies and provides the department the ability to modify a prior program year's assessment when there is an additional disproportionate share allotment available to Ohio. Paragraph (C) specifies the assessment rates for the 2010 program year and Paragraph (D) specifies the revised assessment rates applicable to program year 2009.

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. This question is not applicable to any incorporation by reference to another OAC rule because such reference is exempt from compliance with RC 121.71 to 121.74 pursuant to RC 121.76(A)(3).

This rule incorporates one or more references to the Ohio Revised Code. This question is not applicable to any incorporation by reference to the Ohio Revised Code because such reference is exempt from compliance with RC 121.71 to 121.74 pursuant to RC 121.76(A)(1).

This rule incorporates one or more references to an ODJFS form or forms. The cited ODJFS form was provided to persons affected by this rule for purposes of filing that year's cost report with the Department. The form JFS 02930, Hospital Cost Report, is available in multiple versions depending on the year for which the report is being filed. The text of the rule dictates the appropriate version of the form to be used by each hospital for their respective cost reporting period. The most recent version of the form can be found at <http://jfs.ohio.gov/ohp/bhpp/costrpt.stm>.

This rule incorporates one or more references to a federal form. The cited federal forms were submitted to the department by persons affected by this rule for purposes of filing that year's cost report with the Department. The text of the rule dictates the appropriate version of the form to be used by each hospital for their respective cost reporting period. Each cited form is generally available to persons affected by this rule via the Centers for Medicare and Medicaid Service web site <http://cms.hhs.gov/>.

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:

Not Applicable.

12. 119.032 Rule Review Date: **9/23/2010**

(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 revenues.

\$209,213,622

Total program assessment revenues, as a result of this rule, are approximately \$209,213,622. For program year 2010 the total assessment is 208,260,174. The revised HCAP 2009 assessment rates will generate revenue of \$953,448. In total, this is a decrease of approximately \$5.5 million, compared to HCAP 2009, due to a combination of the increase in Ohio's Federal Medical Assistance Percentage (FMAP), the Balanced Budget Act of 1997, Medicare Modernization Act of 2002

and the American Recovery and Reinvestment Act of 2009. These funds will be used to make Disproportionate Share Hospital (DSH) payments to Ohio hospitals through rule 5101:3-2-09.

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

No expenditures necessitated by this rule

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:

This rule requires hospitals to pay an assessment of 0.00975835 of their adjusted total facility costs up to \$216,373,400 and 0.00588010 for any amount in excess of \$216,373,400. This rule will also require hospitals to pay a revised assessment, for HCAP 2009, of 0.010396 (revised from 0.010338) of their adjusted total facility costs up to \$216,374,000 and 0.00738107 (revised from 0.00738093) for any amount in excess of \$216,374,000. The increased HCAP 2009 revenues will be used to match newly available federal funds that will allow for the distribution of \$2.5 million to hospitals using the HCAP 2009 distribution model. In total, hospitals will be required to pay approximately \$5.5 million less than was needed to fund HCAP 2009's original model, due to the combination of the increase in the Federal Medical Assistance Percentage rate and additional Disproportionate Share Allotment provided to Ohio through the American Recovery and Reinvestment Act of 2009.

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.

All hospitals, including those owned by counties, townships or municipal corporations, are required to pay an assessment in rule 5101:3-2-08.1, which is used to make disproportionate share payments to Ohio hospitals through rule 5101:3-2-09. Total program assessment revenues for the 2010 program year are approximately \$208,260,174. Of this amount, the department estimates that \$9,486,256 will be paid by hospitals owned by counties, townships or municipal corporations. This is an decrease from program year 2009 of approximately \$5.5 million, for all hospitals, including a decrease of \$443,052 for hospitals owned by counties, townships or municipal corporations, due to a combination of the increase in the Federal Medical Assistance Percentage (FMAP) rate, the Balanced Budget Act of 1997, the Medicare Modernization Act of 2003 and the American Recovery and Reinvestment Act of 2009.

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.

Each hospital is required to pay an assessment of 0.00975835 of their adjusted total facility costs up to \$216,373,400 and 0.00588010 for any amount in excess of \$216,373,400.

(a) Personnel Costs

Not Applicable

(b) New Equipment or Other Capital Costs

Not Applicable

(c) Operating Costs

Not Applicable

(d) Any Indirect Central Service Costs

Not Applicable

(e) Other Costs

The cost of the assessment is dependent on a hospital's adjusted total facility costs as stated above.

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.

The assessment is used to fund the state share of disproportionate share payments to Ohio hospitals, according to rule 5101:3-2-09. The total disproportionate share payments to Ohio hospitals include federal funding in addition to the state match. In aggregate, the disproportionate share funding paid to the hospitals exceeds the assessment, although each individual hospital's disproportionate share payment is based on its cost report data as applied in rule 5101:3-2-09.

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

development.

The assessment enables Ohio Medicaid to draw down federal dollars to fund the disproportionate share program for Ohio hospitals, and the additional funding has a positive effect on economic development.