

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

Agency Name

**Division of Medical Assistance**

Division

**Ben Anderson**

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**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? **No**

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 to update the assessment rates for the Hospital Care Assurance Program (HCAP) for the 2012 program year (October 1, 2011 - September 30, 2012).

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 amendment updates paragraph (B) to specify to which program year the rule applies. Paragraph (C) establishes an assessment rate of 0.008396619575 of a hospital's adjusted total facility costs up to \$216,372,500 and 0.006 for any amount in excess of \$216,372,500. Throughout this rule, references to the Department of Job and Family Services are replaced with references to the Office of Medical Assistance in accordance with R.C. 5101.01(B)

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 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. If applicable, indicate each specific paragraph of the rule that has been modified:

*Not Applicable.*

12. 119.032 Rule Review Date: **12/1/2015**

(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.

199,125,714

Total program assessment revenues are approximately \$199,125,714 for program year 2012. This is an increase of approximately \$464,688, compared to HCAP 2011, 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 expiration of an allotment increase provided by American Recovery and Reinvestment Act of 2009. These funds will be used to make Disproportionate Share Hospital (DSH) payments to Ohio hospitals totaling \$545.1 million 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 0.008396619575 of their adjusted total facility costs up to \$216,372,500 and 0.006 for any amount in excess of \$216,372,500. Hospitals will be required to pay approximately \$464,688 more than was needed to fund HCAP 2011, 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 expiration of an allotment increase provided by 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**

**S.B. 2 (129th General Assembly) Questions**

18. Has this rule been filed with the Common Sense Initiative Office pursuant to R.C. 121.82? **Yes**

19. Specific to this rule, answer the following:

A.) Does this rule require a license, permit, or any other prior authorization to engage in or operate a line of business? **No**

B.) Does this rule impose a criminal penalty, a civil penalty, or another sanction, or create a cause of action, for failure to comply with its terms? **Yes**

All hospitals are expected to pay the assessment on or before the specified dates. Failure to comply results in a penalty as required by ORC 5112.99 and implemented by OAC rule 5101:3-2-09(L)(2). With regards to the penalty - we anticipate that hospitals will comply with the assessment due dates of the

assessment and thus will not be subject to any penalties.

C.) Does this rule require specific expenditures or the report of information as a condition of compliance? **Yes**

This rule requires hospitals to pay an assessment of 0.008396619575 of their adjusted total facility costs up to \$216,372,500 and 0.006 for any amount in excess of \$216,372,500. Total program assessment revenues are approximately \$199,125,714 for program year 2012.

**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 2012 program year are approximately \$199,125,714. Of this amount, the Office of Medical Assistance (OMA) estimates that \$8,129,818, a decrease of \$694,177, will be paid by hospitals owned by counties, townships or municipal corporations. This is an increase of approximately \$464,688 for all hospitals, compared to HCAP 2011, 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 expiration of an allotment increase provided by 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.

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 0.008396619575 of their adjusted total facility costs up to \$216,372,500 and 0.006 for any amount in excess of \$216,372,500.

(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.