

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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5101:3-2-09

Rule Number

AMENDMENT

TYPE of rule filing

Rule Title/Tag Line

**Payment policies for disproportionate share and indigent care
adjustments for hospital services.****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**

5. Statute(s) the rule, as filed, amplifies or implements: **5111.01, 5111.02, 5111.021, 5112.01, 5112.03 to 5112.11, 5112.17 to 5112.19, 5112.21**

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

This rule is being proposed to provide an updated distribution formula for the 2009 Hospital Care Assurance Program (HCAP)(October 1, 2008 - September 30, 2009) and for five year rule review.

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 conditions, requirements and operation of HCAP. The proposed distribution formula is updated to reflect more current hospital data, to adjust the methodology to allocate total available disproportionate share funds based on fixed percentages, to eliminate the use of the Disproportionate Share Limit pool and to provide a methodology which allows funds allocated to a pool to remain in that pool when a provider reaches their hospital-specific disproportionate share limit.

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:

The response to Question 5 of the Rule Summary and Fiscal Analysis (statute the rule, as filed, amplifies or implements) has been modified so as to not include sections of the ORC that have been repealed.

OLD Question 5: 5111.01, 5111.02, 5111.021, 5112.01 to 5112.21

NEW Question 5: 5111.01, 5111.02, 5111.021, 5112.01, 5112.03 to 5112.11, 5112.17 to 5112.19, 5112.21

There are no changes to the rule body.

12. 119.032 Rule Review Date: **5/27/2009**

(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.

\$563 million

Federal funding for the Disproportionate Share Hospital (DSH) program is \$349.8 million. The state share of this expenditure, which is \$213.7 million, is funded through an assessment to Ohio hospitals referenced in rule 5101:3-2-8.1.

Total program expenditures are approximately \$563 million for program year 2009. This is a an increase from program year 2008 levels by approximately \$27 million 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 (ARRA)of 2009.

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

600-650 and 600-649

Expenditures include disproportionate share payments to Ohio hospitals. State share funds come from line item 600-649, federal funds come from line item 600-650.

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 is no cost of compliance associated with this rule. This rule will provide Ohio hospitals with approximately \$563 million in disproportionate share funding.

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.

There is no cost of compliance. This rule will provide Ohio hospitals, including those owned by counties, townships and municipal corporations, with approximately \$563 million in disproportionate share funding. The department estimates that \$51.2 million of the total program dollars will be paid to hospitals owned by counties, townships or municipal corporations. The state share of these payments are funded through an assessment to Ohio hospitals referenced in rule 5101:3-2-08.1. The disproportionate share payments to individual hospitals is dependent upon their cost report data as it is applied to 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.

There is no cost of compliance.

(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

Not applicable.

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 is no cost of compliance.

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

Rule 5101:3-2-09 sets forth the conditions, requirements, operation and distribution formula for the hospital care assurance program, which generates disproportionate share funding to Ohio hospitals. Additional funding has a positive impact on economic development.