

**Rule Summary and Fiscal Analysis (Part A)****Ohio Department of Medicaid**

Agency Name

Division

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**5160-2-08.1**

Rule Number

**AMENDMENT**

TYPE of rule filing

Rule Title/Tag Line

**Assessment rates.****RULE SUMMARY**

1. Is the rule being filed for five year review (FYR)? **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: **5168.02, 5168.06**
5. Statute(s) the rule, as filed, amplifies or implements: **5168.02, 5168.06, 5168.07, 5168.08**
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 2014, 2016 and 2017 Hospital Care Assurance Program (HCAP).
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 for the 2014 program year (October 1, 2013 - September 30, 2014), the 2016 program year (October 1, 2015 - September 30, 2016) and the 2017 program year (October 1, 2016 - September 30, 2017). The amendment updates paragraph (B) to specify to which program year the rule applies. Paragraph (C) establishes an assessment rate of 0.008354365 of a hospital's adjusted total facility costs up to \$216,372,500 and 0.00668 for any amount in excess of \$216,372,500. The sum of the two products will be each hospital's assessment amount for program year 2016. This rule was further amended to include a new paragraph (D) to establish calculation of assessment rates for program year 2017. Paragraph (D) establishes an assessment rate of one and one half per cent of a hospital's adjusted total facility costs for program year 2017. For hospitals with adjusted total facility costs, as described in paragraph (D)(1) of this rule, that are greater than \$216,372,500, multiply a factor of one and one half per cent times the hospital's adjusted total facility costs as described in paragraph (CD)(1) of this rule, up to \$216,372,500. Multiply a factor of one per cent times the hospital's adjusted total facility costs as described in paragraph (D)(1) of this rule, that are in excess of \$216,372,500. The sum of the two products will be each hospital's assessment amount for program year 2017. Paragraph (D) was further amended to include the department may establish a rate lower than the rates described in paragraph D(2) of this rule through the notification and reconsideration procedures described in paragraph (G) of this rule. Paragraph (E) establishes the final tier one assessment rate of 0.0084150187 of a hospital's adjusted total facility costs up to \$216,372,500 and 0.00663 for any amount in excess of \$216,372,500. The sum of the two products will be each hospital's assessment amount for program year 2014.

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:

The rule incorporates one or more references to another rule or rules of the Ohio Administrative Code. This question is not applicable to an 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 references is exempt from compliance with RC 121.71 to 121.74 Pursuant to RC 121.76(A)(1).

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:

The original file version of the rule contained program year 2012 in paragraph (B)(3) which has been changed to 2014. The effective date listed in paragraph (E) changed from February 21, 2013 to June 25, 2015. In paragraph (E)(2) the original tier one assessment rate of 0.0083966197575 changed to 0.008401502, and the increased amount of 0.0084222 changed to 0.0084150187. The original tier two assessment rate of 0.006 changed to 0.00663.

The public hearing notice was originally issued on October 17, 2016. An amended notice is now being issued to address additional changes to rule 5160-2-08.1 that were made subsequent to the issuance of the public hearing notice but prior to the scheduled public hearing. The additional changes relate to the inclusion of the 2014 final assessment rates for the Hospital Care Assurance Program (HCAP). In the second paragraph of the public hearing notice, 2014 was added to the years being proposed for amendment. The second paragraph also changed to include in paragraph (E) of the proposed OAC 5160-2-08.1, the revised 2014 assessment rates specified in 5160-2-08.1 of the Administrative Code, effective June 25, 2015. The original tier one assessment rate of 0.008401502 is increased to 0.0084150187. The original tier two assessment rate of 0.00663 is unchanged.

12. Five Year Review (FYR) Date: **10/17/2016**

(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.

\$2,797,295

Total program assessment revenues are approximately \$230,527,667 for program year 2016. This is an increase of \$2,546,820 compared to HCAP 2015. The revenue increase is a result of a combination of the decrease in Ohio's Federal Medical Assistance Percentage (FMAP) and an increase in Ohio's federal allotment. These funds will be used to make Disproportionate Share Hospital (DSH) payments to Ohio hospitals totaling \$613 million through rule 5160-2-09.

Total program assessment revenues are approximately \$220,281,324 for program year 2014. This is an increase of approximately \$250,475, compared to the preliminary HCAP 2014, due to an increase in Ohio's federal share disproportionate share allotment for federal fiscal year 2014. These funds will be used to make Disproportionate Share Hospital (DSH) payments to Ohio hospitals totaling \$677,326 through rule 5160-2-09.

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

There are no expenditures as a result of 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 0.008354365 of their adjusted total facility costs up to \$216,372,500 and 0.00668 for any amount in excess of \$216,372,500 for fiscal year 2016. Hospitals will be required to pay \$2,546,820 more than was needed to fund HCAP 2015. This is due to an increase in Ohio's federal allotment. However, total DSH payments made to hospitals through rule 5160-2-09 will outweigh the total assessments paid by the hospitals.

This rule also establishes the final assessment rate for fiscal year 2014. The assessment rate increased from 0.008401502 to 0.0084150187 of their adjusted total facility costs up to \$216,372,500 and 0.00663 for any amount in excess of \$216,372,500 for fiscal year 2014. Hospitals will be required to pay \$250,475 more

than the preliminary assessment amounts for 2014.

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? **No**

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

Yes, this rule requires that each hospital pay an assessment. The assessment is used as the state match to draw down Federal Disproportionate Share Hospital funding. All funds received (state and federal) are returned to the hospital industry. Although no hospital is guaranteed to receive an amount equal to its assessment.

**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 accordance with this rule. The assessment revenues are used to make disproportionate share payments to Ohio hospitals in accordance to OAC rule 5160-2-09. The Department of Medicaid (ODM) estimates that an assessment total of \$7,971,846 will be paid by all hospitals owned by counties, townships or municipal corporations for HCAP 2016. This is a decrease of \$93,533 from HCAP 2015.

For all hospitals, the total HCAP 2016 assessment revenues are \$230,527,667. This is an increase of \$2,546,820 compared to HCAP 2015. This increase is due to a combination of the increase in Ohio's Federal Medical Assistance Percentage (FMAP) and an increase in Ohio's federal allotment.

The Department of Medicaid (ODM) estimates that an additional \$10,560 will be paid by all hospitals owned by counties, townships or municipal corporations for HCAP 2014.

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 0.008354365 of their adjusted total facility costs up to \$216,372,500 and 0.00668 for any amount in excess of \$216,372,500 for program year 2016.

Each hospital is also required to pay an assessment of 0.84150187 of their adjusted total facility costs up to \$216,372,500 and 0.00663 for any amount in excess of \$216,372,500 for program year 2014. This is an increase of 0.000013517 from the preliminary assessment rate for program year 2014.

(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.

This rule sets forth the rates for the hospital care assurance program. There is no

impact on the agency. Hospitals that are owned by local governments will be required to pay the assessment. This is an annual expenditure that hospitals have anticipated in their budgets.

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 as the aggregate DSH payments exceed the assessments.