

## Rule Summary and Fiscal Analysis

### Part A - General Questions

**Rule Number:** 5160-2-09

**Rule Type:** Amendment

**Rule Title/Tagline:** Payment policies for disproportionate share and indigent care adjustments for hospital services.

**Agency Name:** Ohio Department of Medicaid

**Division:**

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#### I. Rule Summary

1. **Is this a five year rule review?** No
  - A. **What is the rule's five year review date?** 1/1/2022
2. **Is this rule the result of recent legislation?** No
3. **What statute is this rule being promulgated under?** 119.03
4. **What statute(s) grant rule writing authority?** 5168.02
5. **What statute(s) does the rule implement or amplify?** 5168.01, 5168.02, 5168.03, 5168.04, 5168.05, 5168.06, 5168.07, 5168.08, 5168.09, 5168.10, 5168.11, 5168.13, 5168.99, and 5168.991
6. **What are the reasons for proposing the rule?**

This rule is being proposed for amendment to revise the definition of a rural hospital, to update cost report references within the rule, to amend the term Rural Access Hospital (RH), to update paragraph references within the rule, to remove references relating to the Disability Assistance Medical program, to remove reference to transplant services, to remove references to prior payment pool allocations, to update the Ohio Administrative Code reference related to the definition of a Children's

Hospital, to clarify how days are calculated regarding due dates for assessments and distribution, and to remove information related to prior years.

**7. Summarize the rule's content, and if this is an amended rule, also summarize the rule's changes.**

This rule sets forth the conditions, requirements and operations of the Hospital Care Assurance Program (HCAP) as well as the distribution formula and payment policies for disproportionate share hospitals (DSH) for each program year. The proposed change in the definition of a rural hospital is to establish a more specific definition of a hospital's qualification to receive payment from the rural payment pool. This change defines a hospital as being rural if the hospital is geographically located in an Ohio county that is not classified into a Core Based Statistical Area (CBSA) as designated in the inpatient prospective payment system (IPPS) case-mix and wage index table as published by the Centers for Medicare and Medicaid Services (CMS). This change is necessary to preserve funds from the rural payment pool for smaller, rural hospitals that serve underserved populations, as compared to larger urban hospitals. Additional changes to the rule include: (1) replacing the term "Rural Access Hospital" ("RAH") with "Rural Hospital" ("RH") since the definition of a rural hospital is being amended, (2) updating the reference to line number 202 from 201 on Schedule I of the cost report, (3) updating the Ohio Administrative Code rule reference from 5160-2-07.2 to 5160-2-05 as it relates to the definition of a children's hospital due to the change in the rule number, (4) removing paragraph definitions and references relating to the Disability Assistance Medical program which no longer exists, (5) removing the references to the percentages of HCAP funds that were distributed from the Medicaid indigent care pool and uncompensated care pool for the 2016 program year since they are no longer relevant and removed other information from prior years that was no longer relevant, (6) removing the references to transplant services since those services are reimbursed by DRG and are no longer separately cost settled through the cost report, (7) adding the word "working" in paragraphs (D)(1) and (D)(2) to clarify how the days are calculated in regards to assessment and distribution due dates, and (8) updating paragraph references within the rule due to the removal of the definition of the Disability Assistance Medical program.

**8. Does the rule incorporate material by reference? Yes**

**9. If the rule incorporates material by reference and the agency claims the material is exempt pursuant to R.C. 121.71 to 121.76, please explain the basis for the exemption and how an individual can find the referenced material.**

This rule incorporates one or more references to another rule or rules of the Ohio Administrative Code (OAC). This question is not applicable to any incorporation by reference to the OAC 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 the Medicare Inpatient Prospective Payment System Case-Mix and Wage Index table published by CMS. This cited material is generally available to persons affected by this rule via the "Resources" and "Publications" links on the ODM web site (<http://medicaid.ohio.gov/>) in accordance with RC 121.75(E).

- 10. If revising or re-filing the rule, please indicate the changes made in the revised or re-filed version of the rule.**

*Not Applicable*

## **II. Fiscal Analysis**

- 11. As a result of this proposed rule, please estimate the increase / decrease in revenues or expenditures affecting this agency, or the state generally, in the current biennium or future years. If the proposed rule is likely to have a different fiscal effect in future years, please describe the expected difference and operation.**

This will have no impact on revenues or expenditures.

\$0

Total program expenditures for the program year 2018 are \$633,901,968, which was planned for in House Bill 49. This is an increase in expenditures of approximately \$12,508,354, compared to HCAP program year 2017 due to a combination of the increase in Ohio's Federal Medical Assistance Percentage (FMAP) and an increase in Ohio's federal allotment due to the Balanced Budget Act of 1997. Ohio Hospitals pay an assessment for the state-share with no impact on the General Revenue Fund.

- 12. What are the estimated costs of compliance for all persons and/or organizations directly affected by the rule?**

Based on amendments to this rule, there is no cost of compliance for hospitals affected by this rule. However, existing language in this rule imposes a penalty of \$1,000 a day upon hospitals that do not submit information as required by the assigned due date and/or do not pay their assessment as required by the assigned due date. Additionally, existing language also requires hospitals to report to the Department the charges

and payments for services rendered during the reporting period and requires Critical Access Hospitals (CAH) to report to the Department every October 1st of any change in their CAH status.

13. **Does the rule increase local government costs? (If yes, you must complete an RSFA Part B).** No
14. **Does the rule regulate environmental protection? (If yes, you must complete an RSFA Part C).** No

### **III. Common Sense Initiative (CSI) Questions**

15. **Was this rule filed with the Common Sense Initiative Office?** Yes
16. **Does this rule have an adverse impact on business?** Yes

- 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

This rule imposes a penalty of \$1,000 per day upon hospitals that do not pay their assessment by the due date and/or submit information as required by the assigned due date.

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

This rule requires that hospitals report to the Department the charges and payments for services rendered during their hospital fiscal year. This rule also requires a Critical Access Hospital (CAH) to report to the Department every October 1st of the program year their certification as a CAH in order to be considered a CAH for disproportionate share payment purposes, or any change in their CAH status.