

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

Agency Name

Division

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5160-2-09

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 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**
5. Statute(s) the rule, as filed, amplifies or implements: **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. State the reason(s) for proposing (i.e., why are you filing,) this rule:

This rule is being proposed for amendment to update the distribution formula for payment policies for disproportionate share hospitals (DSH) for use in program year 2016 and 2017, and each year thereafter.

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 distribution formula for the payment policies for disproportionate share hospitals (DSH) in the 2016 and 2017 program year, and each year thereafter. The proposed rule updates the predetermined percentage of the total funds available for distribution to each of the seven payment policy pools. Paragraph (D) was amended to update the allocated percentage of the indigent care pool for two of the policy payment pools. The percentage allocated to the Medicaid indigent care pool increased to 72.01% from 66.71%, while the allocation to the disability assistance medical and uncompensated care pool below 100 percent decreased to 5.25% from 10.55% for program year 2016. Paragraph (D) was further amended to include the allocated percentage of the indigent care pool for two of the policy payment pools for program year 2017, and each year thereafter. The percentage allocated to the Medicaid indigent care pool is 77.26%, while the allocation to the disability assistance medical and uncompensated care pool below 100 percent is 0% for program year 2017, and each year thereafter.

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).

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 prior effective dates listed in the original file version of this rule were incorrect. This rule has been revised to include the correct prior effective dates as follows: 5/16/94 (Emer), 7/24/94, 3/10/95, 3/16/96, 8/7/96 (Emer), 10/21/96, 11/1/97, 8/6/98 (Emer), 9/18/98 (Emer), 8/5/99 (Emer), 9/15/99 (Emer), 8/16/00 (Emer), 9/28/00, 8/2/01, 7/22/02, 7/28/03, 7/1/04, 10/1/04, 7/22/05, 10/27/06 (Emer), 11/30/06, 8/3/08, 8/13/09, 12/25/10, 6/25/15, 6/13/16.

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 expenditures.

\$613,316,464

Total program expenditures are \$613,316,464 for program year 2016. This is an increase in expenditures of approximately \$4,026,230 compared to HCAP program year 2015. These increases are due to a combination of a decrease in Ohio's Federal Medical Assistance Percentage (FMAP) and an increase in Ohio's federal allotment due to the Balanced Budget Act of 1997.

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

600651

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 to hospitals associated with this rule. This rule will provide Ohio hospitals with approximately \$613 million to help mitigate the cost of providing care to the uninsured population.

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**

This rule imposes a penalty of \$1,000 per day for each day the assessment is not paid after the 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.

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 \$613.3 million in disproportionate share funding. The department estimates that \$30.7 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 5160-2-08.1. The disproportionate share payments to individual hospitals is dependent upon their cost report data as it is applied to rule 5160-2-09.

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 5160-2-09 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. As a result of the increase in disproportionate share hospital funding, publicly owned hospitals will have an increased ability to support county issues based on the relationship to the county.