

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

Agency Name

Division

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5160-2-21

Rule Number

AMENDMENT

TYPE of rule filing

Rule Title/Tag Line

Policies for outpatient hospital services.**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: **5164.02**

5. Statute(s) the rule, as filed, amplifies or implements: **5164.02, 5164.70**

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

The federal Centers for Medicare and Medicaid Services, in conjunction with the American Medical Association and other professional groups, updates the Healthcare Common Procedure Coding System (HCPCS) annually. To the extent that HCPCS codes or descriptions are incorporated into the Ohio Administrative Code (OAC) governing the Medicaid program, changes made to HCPCS necessitate corresponding changes in OAC rules.

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:

In the appendices to this rule, new covered HCPCS codes are added, obsolete HCPCS codes are removed, and the fee schedules associated with the codes are updated. No change is being made to the rule body itself.

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).

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:

After reviewing comments from providers, we have decided to cover tobacco cessation and other patient education services in the outpatient setting for all recipients. Currently, many of these services are only available for children and pregnant women. We have also decided to cover medical nutrition therapy services in the outpatient setting. Appendix F was updated to reflect these changes.

We have also decided to cover lab CPT code 81161 in the outpatient setting. This change is reflected in Appendix H. Finally, Appendix C was updated to include rates for surgery CPT codes 23333 and 23334 and to remove references to unlisted pricing methodologies that should have been deleted in previous filings.

12. 119.032 Rule Review Date: **12/1/2016**

(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 have no impact on revenues or expenditures.

\$0

This proposed rule will have no impact for the agency during the current biennium.

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

Not Applicable.

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:

Changes to the appendix of this rule include the addition of new Healthcare Common Procedure Coding System (HCPCS) codes, the discontinuation of obsolete HCPCS codes, and the updating of the fee schedules associated with the codes. HCPCS is a standardized coding system that must be used by both providers of medical services and payers for medical services -- such as Medicare, Medicaid, and private insurance carriers -- to ensure compliance with the Health Insurance

Portability and Accountability Act (HIPAA). This coding system is updated at least once a year, and often quarterly, by the Centers for Medicare and Medicaid Services (CMS) and the American Medical Association (AMA). These updates must be reflected in Ohio Department of Medicaid (ODM) rules, and providers of medical services must use updated codes in order to maintain their compliance with HIPAA. Any costs incurred by providers in connection with HCPCS updates would result from the HIPAA mandate and not from any requirement imposed by ODM. Indeed, ODM expects that Medicaid providers routinely incorporate HCPCS updates as part of their standard business practices.

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? **No**

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? **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.

To the extent that it is also a county, township, or municipal corporation, a Medicaid provider could be affected by the proposed rule.

Changes to the appendix of this rule include the addition of new Healthcare Common Procedure Coding System (HCPCS) codes, the discontinuation of obsolete HCPCS codes, and the updating of the fee schedules associated with the codes. HCPCS is a standardized coding system that must be used by both providers of medical services and payers for medical services -- such as Medicare, Medicaid, and private insurance carriers -- to ensure compliance with the Health Insurance Portability and Accountability Act (HIPAA). This coding system is updated at least once a year, and often quarterly, by the Centers for Medicare and Medicaid Services (CMS) and the American Medical Association (AMA). These updates must be reflected in Ohio Department of Medicaid (ODM) rules, and providers of medical services must use updated codes in order to maintain their compliance with HIPAA. Any costs incurred by providers in connection with HCPCS updates would result from the HIPAA mandate and not from any requirement imposed by ODM. Indeed, ODM expects that Medicaid providers routinely incorporate HCPCS updates as part of their standard business practices.

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.

The comprehensive cost estimates are provided in the following sections.

(a) Personnel Costs

ODM does not expect that the proposed rule will result in any increase in personnel costs to Medicaid providers.

(b) New Equipment or Other Capital Costs

ODM does not expect that the proposed rule will result in any increase in new equipment or other capital costs to Medicaid providers.

(c) Operating Costs

ODM does not expect that the proposed rule will result in any increase in operating costs to Medicaid providers.

(d) Any Indirect Central Service Costs

ODM does not expect that the proposed rule will result in any increase in indirect central service costs to Medicaid providers.

(e) Other Costs

ODM does not expect that the proposed rule will result in any increase in other costs to Medicaid providers.

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.

Incorporation of the proposed fee structure changes into the department's

claim-processing system is part of the administration of the Medicaid program; it entails no significant new costs for the department.

None of the changes in the proposed rule requires a provider to modify its business practices; therefore, no implementation cost is anticipated for any local government or political subdivision.

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

There is no discernible impact on economic development as a result of this proposed rule.