

**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

**Reimbursement for services provided in an outpatient hospital setting.****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? **Yes**Bill Number: **HB64**General Assembly: **131**Sponsor: **Rep. Ryan Smith**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:

This rule is being proposed for amendment to modify provisions relating to the reimbursement of outpatient hospital services under the Ohio Medicaid program. These modifications result from recommendations by the Department and the General Assembly to build appropriations established in Am. Sub. H.B. 64 of the 131st General Assembly as well as 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 describes the payment policies and rates for outpatient services delivered by hospitals that are subject to prospective payment based on diagnosis related groups (DRG).

This rule is being proposed for amendment to update the rule body and its appendices to reflect updates to the Department's reimbursement methodologies that contributed to the building of the appropriation established in Am. Sub. H.B. 64. The Department will reform its outpatient hospital reimbursement policy for pharmaceuticals billed with revenue center code (RCC) 025X and/or 0636 with a provider-administered pharmaceutical HCPCS J-code or Q-code. When applicable for additional payment based on the provisions in OAC rule 5160-2-21, any line item that contains RCC 025X and/or 0636 with a provider-administered pharmaceutical HCPCS J-code or Q-code as listed on the Department's Provider-Administered Pharmaceuticals fee schedule, will be paid in accordance with paragraph (E) of rule 5160-4-12 of the Administrative Code at the rate in effect on the date of service. If a HCPCS J-code or Q-code is listed on the Provider-Administered Pharmaceuticals fee schedule as "by report," charges on that detail line will pay sixty percent of the hospital's specific cost-to-charge ratio. Charges on detail lines that carry RCC 025X and/or 0636 without a provider-administered pharmaceutical HCPCS J-code or Q-code when an applicable J-code or Q-code does not exist for the provider-administered pharmaceutical for the date of service will also pay sixty percent of the hospital's specific outpatient cost-to-charge ratio. The rule will also allow the five percent rate increase for outpatient hospital services, except for children's hospitals, authorized in Am. Sub. H.B. 1 of the 128th General Assembly to expire on December 31, 2015. The appendices to this rule will be updated to reflect the expiration of the five percent rate increase that was implemented on January 1, 2010. Appendix H to this rule, which provides reimbursement rates for laboratory services will be eliminated; laboratory services will pay in accordance to Appendix DD to OAC rule 5160-1-60, at the same rate as eliminated Appendix H.

Language regarding payment for claims that carry a surgical procedure code but do not group to an outpatient surgical code group will be removed; outdated language will also be removed. The intellectual disability diagnosis codes that pertains to unlisted dental surgery payments will be updated to include International Classification of Diseases (ICD)-10 diagnosis codes.

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 Provider-Administered Pharmaceuticals fee schedule, revision date 8/1/2015, which is generally available to persons affected by this rule via the ODM website (<http://medicaid.ohio.gov/providers/FeeScheduleAndRates.aspx>) in accordance with RC 121.75(E).

This rule incorporates one or more references to appendix I of the Department's Hospital Billing Guidelines, revision date 11/1/2015, which is generally available to persons affected by this rule via the ODM website (<http://medicaid.ohio.gov/RESOURCES/Publications/ODMGuidance.aspx#1535543-provider-billi>) in accordance with RC 121.75(E).

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:

Paragraph (B)(4) was revised to include the URL for the Hospital Billing Guidelines. Paragraph (G)(2)(e)(ii) was revised to include the URL for the Provider-Administered Pharmaceuticals fee schedule. An appendix title was added to appendix C for clarification. An outdated procedure code was deleted and coverage to bariatric surgery procedure codes were added to appendix C. Hospital classification level headers in appendices D and E were rearranged for consistency throughout the appendices to this rule. References to OAC rule 5160-2-07.2 in

appendices F and G were rearranged for clarity. Coverage and reimbursement rates for vaccine-related procedure codes were updated in appendix F. Per OAC rule 5160-2-21, a UB modifier is required for comprehensive vision exams; the UB modifier was added as a note in appendix F for those procedure codes. Descriptions for modifiers U1, U2, and UB were added to appendix F. In addition, the revision dates and weblinks for appendix I to the Department's Hospital Billing Guidelines and the Provider-Administered Pharmaceuticals fee schedule were provided to fulfill the incorporation by reference requirements stated in question 8 of this RSFA.

12. Five Year Review (FYR) Date: **10/16/2015**

(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 decrease expenditures.

\$224,705,000

The Department estimates that this amendment will decrease expenditures by \$224.7 million over the 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:

There is not a cost of compliance associated with the proposed rule as the changes are updates to the Department's reimbursement methodology.

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.

There is not a cost of compliance associated with the proposed rule as the changes are updates to the Department's reimbursement methodology.

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 will be no costs to the industry as the changes pertain to the Department's reimbursement methodology.

**(a) Personnel Costs**

There will be no personnel costs as the changes pertain to the Department's reimbursement methodology.

(b) New Equipment or Other Capital Costs

There will be no new equipment or other capital costs as the changes pertain to the Department's reimbursement methodology.

(c) Operating Costs

There will be no operating costs as the changes pertain to the Department's reimbursement methodology.

(d) Any Indirect Central Service Costs

There will be no indirect central service costs as the changes pertain to the Department's reimbursement methodology.

(e) Other Costs

There will be no other costs as the changes pertain to the Department's reimbursement methodology.

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 updated reimbursement methodologies into the Department's claim-processing system is part of the administration of the Medicaid program. As these updates affect reimbursement methodologies and therefore do not implement new requirements, payment for new requirements imposed by the proposed rule will not be required.

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

While this amendment will reduce revenues to hospitals owned by local government entities, the Department is uncertain as to the extent to which the revenues of these hospitals are used to support local economic development efforts.