

Rule Summary and Fiscal Analysis

Part A - General Questions

Rule Number: 5160-2-75

Rule Type: Amendment

Rule Title/Tagline: Outpatient hospital reimbursement.

Agency Name: Ohio Department of Medicaid

Division:

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I. Rule Summary

1. **Is this a five year rule review?** Yes
 - A. **What is the rule's five year review date?** 10/17/2023
2. **Is this rule the result of recent legislation?** Yes
 - A. **If so, what is the bill number, General Assembly and Sponsor?** HB 33 - 135
- Jay Edwards
3. **What statute is this rule being promulgated under?** 119.03
4. **What statute(s) grant rule writing authority?** 5164.02
5. **What statute(s) does the rule implement or amplify?** 5164.02, 5164.70
6. **What are the reasons for proposing the rule?**

Rule 5160-2-75 is being proposed for amendment as part of the five-year rule review process and to facilitate the migration from the Enhanced Ambulatory Patient Groups (EAPG) version 3.14 to version 3.17. A budget neutrality factor has been applied to maintain payment neutrality. The relative weights and hospital-specific base rates will be updated using more recent claims and cost report data. The overall formula used to calculate outpatient payments will not change.

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

Rule 5160-2-75 sets forth the outpatient hospital reimbursement methodology for hospitals subject to the enhanced ambulatory patient grouping system (EAPG) prospective payment methodology. The proposed rule updates the relative weights and base rates used to reimburse hospitals for outpatient services utilizing updated cost report and recent claim data. The formula used to calculate outpatient payments will not change.

Amendments to this rule include increases to cost coverage for outpatient services, including critical access hospitals and rural hospitals, which is achieved through the adoption of new hospital peer group base rates, with adjustments made by stop loss/stop gain provisions to avoid large swings in reimbursement for individual hospitals. The stop gain provision is being updated from 5% to 10% and there is no change to the stop loss provision. The rule also increases the payments for observation of acute medical-related services and establishes payments and access for observation services related to behavioral health (BH) and/or substance use disorder (SUD), with improved access to such services. Additionally, this rule facilitates the transition of freestanding psychiatric facilities to the EAPG reimbursement methodology. Lastly, this rule removes HCPCS codes specifically called out for laboratory and radiology services in subparagraph (B)(3), removes EAPG types listed in subparagraph (F)(3) that are no longer applicable, updates coverage for acupuncture services in paragraph (H), updates citations and references, and removes regulatory restrictions.

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. 121.75, 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. This question is not applicable to any incorporation by reference to another OAC rule because such reference is exempt from compliance with R.C. 121.71 to 121.74 pursuant to R.C. 121.75(A)(1)(d).

The rule incorporates one or more references to uncodified statutes. This question is not applicable to any incorporation by reference to uncodified statutes because such reference is exempt from compliance with RC 121.71 to 121.74 in accordance with RC 121.75(A)(1)(b).

The rule incorporates one or more references to the hospital billing guidelines, pharmaceutical fee schedule, durable medical equipment fee schedule and outpatient hospital behavioral health fee schedule, which can be found on the Ohio Department of Medicaid website at <http://www.medicaid.ohio.gov/>.

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

This rule is being revised file to strike through text in paragraphs (E)(1) and (2), and strike through paragraph (I) from the rule.

II. Fiscal Analysis

- 11. Please estimate the increase / decrease in the agency's revenues or expenditures in the current biennium due to this rule.**

This will increase expenditures.

\$255,750,000

The Ohio biennial budget enacted under Am. Sub. H.B. No. 33 of the 135th General Assembly included provisions to update reimbursement for outpatient hospitals. Implementation of the changes to the outpatient hospital reimbursement rule is expected to increase annual aggregate Medicaid expenditures for outpatient hospital services by approximately \$170.5 million.

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

This rule imposes no new requirements on hospitals that would result in unplanned expenditures, therefore there are no estimated costs of compliance.

- 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**

- 15. If the rule imposes a regulation fee, explain how the fee directly relates to your agency's cost in regulating the individual or business.**

Not Applicable

III. Common Sense Initiative (CSI) Questions

16. Was this rule filed with the Common Sense Initiative Office? No

17. Does this rule have an adverse impact on business? No

- 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**

- D. Is it likely that the rule will directly reduce the revenue or increase the expenses of the lines of business of which it will apply or applies? No**

IV. Regulatory Restrictions (This section only applies to agencies indicated in R.C. 121.95 (A))

18. Are you adding a new or removing an existing regulatory restriction as defined in R.C. 121.95? Yes

- A. How many new regulatory restrictions do you propose adding to this rule? 0**

- B. How many existing regulatory restrictions do you propose removing from this rule? 7**

5160-2-75(A)(5) - removed the word "shall".

5160-2-75(B)(3)(a) - removed the word "shall".

5160-2-75(B)(3)(b) - removed the word "shall".

5160-2-75(G)(1)(a) - removed the word "shall".

5160-2-75(G)(2)(b) - removed the word "shall".

5160-2-75(G)(3)(a) - removed the word "must".

5160-2-75(G)(4)(c) - removed the word "shall".

- C. If you are not removing existing regulatory restrictions from this rule, please list the rule number(s) from which you are removing restrictions.**
Not Applicable.