

Rule Summary and Fiscal Analysis

Part A - General Questions

Rule Number: 5160-22-01

Rule Type: Amendment

Rule Title/Tagline: Ambulatory surgery center (ASC) services: provider eligibility, coverage, and reimbursement.

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?** 8/1/2022
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?** 5164.02
5. **What statute(s) does the rule implement or amplify?** 5162.03, 5164.02
6. **What are the reasons for proposing the rule?**

This rule is being amended to add reimbursement policies for dental services, to remove references to Administrative Code rules that are either rescinded or no longer needed as a reference, and to update the language of the rule for grammar and clarity.

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

This rule sets forth the definition of an ambulatory surgery center (ASC), how an ASC can become an eligible Medicaid provider, covered and non-covered surgical

procedures allowed in an ASC, and the ASC reimbursement methodology. Dental service reimbursement is being added so that any dental service that groups to EAPG codes 00350 through 00372, will be reimbursed a flat rate of \$953.60. This flat rate payment is also subject to discounting factors assigned by the EAPG grouper.

The amended rule also removes references to Administrative Code rules, that have either been rescinded or are no longer needed as a reference, throughout paragraph (E). In paragraph (A)(5) a grammatical change was made and in paragraph (A)(9) a spelling mistake was corrected. In paragraphs (C), (C)(1), (E)(1)(a) and (E)(2)(a) the term 'facility' was struck as it is redundant and was not used consistently throughout the rule. The line stating ASCs must bill in accordance with 5160-1-19 of the Administrative Code was struck from paragraph (E) and moved to paragraph (B), to make it clear it applies to all services billed, not just the services listed in paragraph (E). The word 'covered' was added to paragraph (E) for clarity. In paragraphs (F)(1)(a) and (F)(2)(a) the language "Additional payments for" was changed to "Payments for covered" for clarity. A reference to paragraph (F)(1)(c) was added to paragraph (F)(1)(a) for accuracy. In paragraph (F)(2)(c) 'Additional payments' was changed to 'Payments' for clarity. In paragraph (E)(1)(c), (E)(2)(c) and (E)(3)(c), for simplicity, the language "product of paragraphs (D)(2)(a), (D)(2)(b) and (D)(2)(d)" was updated to "result of paragraph (D)(2)(d)". In paragraph (E)(1)(a), (E)(2)(a) and (E)(3)(a), the language "in addition to the facility fee" was struck for clarity.

- 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 another OAC rule because such reference is exempt from compliance with RC 121.71 to 121.74 pursuant to RC 121.76(A)(3).

The rule incorporates one or more references to the provider administered pharmaceutical fee schedule, durable medical equipment fee schedule, the covered code list and the list of codes that require prior authorization, which are generally available on the Ohio Department of Medicaid website at <http://www.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 decrease expenditures.

\$178,000

Reimbursing dental services in an ASC is estimated to decrease expenditures as the dental services move from the outpatient setting to the lower cost ASC setting and as managed care plans use the lower flat rate. The estimated decrease due to that change is \$178,000 annually.

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

For those ASCs that are not already a Medicaid provider and are also not already a Medicare provider, there would be an estimated \$3000-\$5000 cost for accreditation to become a Medicare provider. After obtaining an agreement with CMS, there are no more fees for ASCs to obtain a Medicaid provider agreement. However, there is a small time impact, upwards of an hour, to fill out and submit an application to become a Medicaid provider. There is no expected adverse impact on existing ASC providers as they already meet the requirements.

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?** Yes

In order for an ASC to become a Medicaid provider, the ASC must first have a valid agreement with the Centers for Medicare and Medicaid Services (CMS) to provide services in the Medicare program and then execute a Medicaid provider agreement.

- 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**