

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?** 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?** 5162.03, 5164.02
6. **Does the rule implement a federal law or rule in a manner that is more stringent or burdensome than the federal law or regulation requires?** No
 - A. **If so, what is the citation to the federal law or rule?** Not Applicable
7. **What are the reasons for proposing the rule?**

Rule 5160-22-01 is being proposed for amendment as a result of the enactment of Am.Sub. H.B. No. 33 of the 135th General Assembly, and as part of the five-year

rule review process, and to update the policies and reimbursement methodology for ambulatory surgery centers (ASCs). The ASC base rate will be rebased and the relative weights for ASCs will be recalibrated using more recent claims data. The overall formula used to calculate the ASC payments will not change.

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

This rule, 5160-22-01, sets forth provider eligibility, coverage, and reimbursement methodology for ASCs, subject to the Enhanced Ambulatory Patient Grouping (EAPG) system prospective payment methodology. Ohio's biennial 2024/2025 budget enacted under Am. Sub. H.B. No. 33 of the 135th General Assembly included provisions to update ASC reimbursement. The amendments to this rule are intended to align with the continued reform and modernization of the ASC reimbursement methodology. The components used to calculate ASC payments will be updated by using more recent claims data. These components include increasing the ASC base rate by 9.2%, increasing the flat rate reimbursement for dental services, and implementing ASC-specific relative weights by proposing a stop loss/stop gain provision to avoid large swings in reimbursement to ASCs. The formula used to calculate ASC payments will not change. Lastly, the department is alphabetizing definitions, removing regulatory restrictions, and updating paragraph references.

9. Does the rule incorporate material by reference? Yes

10. 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 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 pursuant to RC 121.75(A)(1)(d).

This rule incorporates one or more references to the Ohio Revised Code. This question is not applicable to any incorporation by reference to another ORC rule because such reference is exempt from compliance pursuant to RC 121.75(A)(1)(a).

The rule incorporates one or more references to the pharmaceutical fee schedule and non-institutional maximum payment schedule. These documents are generally available to persons affected by this rule on the Ohio Department of Medicaid website at <http://www.medicaid.ohio.gov/> and are exempt from compliance pursuant to RC 121.75(B)(6).

11. **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

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

This will increase expenditures.

\$3.72 million

Implementation of these changes is expected to increase annual aggregate Medicaid expenditures for ASC services by approximately \$2.48 million.

13. **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 ASCs that would result in unplanned expenditures, therefore there are no estimated costs of compliance.

14. **Does the rule increase local government costs? (If yes, you must complete an RSFA Part B). No**

15. **Does the rule regulate environmental protection? (If yes, you must complete an RSFA Part C). No**

16. **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

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

18. **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 Restriction Requirements under S.B. 9. Note: This section only applies to agencies described in R.C. 121.95(A).

19. 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? 1

5160-22-1(F)(1)(b): Removed "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.
- D. Please justify the adoption of the new regulatory restriction(s).

Not Applicable