

FEDERAL MEDICAID NOTICE AND PUBLIC HEARING NOTICE
OHIO DEPARTMENT OF JOB AND FAMILY SERVICES

DATE: October 27, 2010
TIME: 10:00 a.m.
LOCATION: Room 3110B, Rhodes State Office Tower
30 East Broad Street, Columbus, OH

Pursuant to sections 5111.02, 5112.03, and 5112.06 and Chapter 119. of the Ohio Revised Code and 42 CFR 447.205 and section 1902(a)(13)(A) of the Social Security Act, the Director of the Ohio Department of Job and Family Services gives notice of the department's intent to amend rules 5101:3-2-07.5, 5101:3-2-08, 5101:3-2-08.1 and 5101:3-2-09 and of a public hearing thereon.

Rule 5101:3-2-07.5, entitled Disproportionate share adjustment, describes the methodology for determining if a hospital is eligible to receive a disproportionate share adjustment and the calculation used to arrive at the hospital-specific disproportionate share limit. This rule is being proposed for amendment to include in the calculation of the disproportionate share limit payments received by hospitals for services provided under Section 1011 – Federal reimbursement of emergency health services provided to undocumented aliens.

This rule sets forth the methodology for determining hospital eligibility to receive disproportionate share payments and the limits on those payment. The rule is amended to add paragraph (D)(4), Section 1011 payments, and in paragraph (D)(5) reduces uncompensated care costs by the amount of the Section 1011 payments.

Rule 5101:3-2-08, entitled, Data policies for disproportionate share and indigent care adjustments for hospital services, describes the data source for data elements used in the Hospital Care Assurance Program. This rule is being proposed for amendment to clarify how data will be treated for hospitals which have a change of ownership and to update the when data updates will be accepted from hospitals.

This rule sets forth the policies for data used to determine disproportionate share and indigent care adjustments. Paragraph (B)(1)(b) is being amended to better describe how data will be treated when a hospital changes owners during either a current or prior program year. Paragraph (E)(4) is being amended to better describe when a hospital is allowed to submit a data correction without paying an administrative fee.

Rule 5101:3-2-08.1, entitled Assessment rates, describes the calculation used to arrive at the assessment rate applied to all hospitals. This rule is being proposed for amendment to establish the assessment rates and the cost levels that fund the Hospital Care Assurance Program (HCAP) for the 2010 program year and to allow the department to make an additional assessment for program year 2009 in order to access additional Federal dollars that are available for distribution, due to an upward revision in Ohio's allotment.

This rule sets forth the assessment rates for the Hospital Care Assurance Program. The amendment

updates paragraph (B) to specify to which program year(s) the rule applies. Paragraph (C) establishes an assessment rate of 0.00975835 of a hospital's adjusted total facility costs up to \$216,373,400 and 0.00588010 for any amount in excess of \$216,373,400. Paragraph (D) establishes the revised assessment rates for program year 2009.

Rule 5101:3-2-09, entitled Payment policies for disproportionate share and indigent care adjustments for hospital services, sets forth the conditions, requirements, and operation of HCAP as well as the distribution formula. This rule is being proposed for amendment to update the distribution formula for payment policies for disproportionate share hospitals (DSH) for use in program year 2010.

The proposed distribution formula is updated to reflect more current hospital data, to update the predetermined percentage of the total funds available for distribution allocated to each pool based on stakeholder input received. The distribution also accommodates the additional funding provided to Ohio by the increase in the Federal Medical Assistance Percentage (FMAP) rate, the Balanced Budget Act of 1997, the Medicare Modernization Act of 2003, and the American Recovery and Reinvestment Act (ARRA) of 2009.

Based on stakeholder input, the proposed distribution model will distribute the increased total funds allotment over HCAP 2009's original funding level, \$5.3 million, evenly to Critical Access Hospitals (CAH) and Rural Hospitals. The \$5.3 million funding increase consists of a \$2.8 million increase in funds as a result of ARRA 2009 and the value of additional funding available for distribution under the HCAP 2009 distribution model, \$2.5 million.

The proposed model distributes total HCAP dollars out of seven pools. The first pool is the High Federal Disproportionate Share and Indigent Care Payment Pool, which is money distributed to those hospitals meeting the high federal disproportionate share hospital definition. The second pool, the Medicaid Indigent Care Payment Pool, is distributed to hospitals based upon the percentage of each hospital's Medicaid (including Medicaid managed care payment shortfall) and Title V business to the total for all hospitals. The third pool, the Disability Assistance (DA) and Uncompensated Care Indigent Care Payment Pool, covers the costs to hospitals for uncompensated care provided to patients on DA or with incomes at or below the poverty level, and a portion of the hospitals costs for uncompensated care for patients above the poverty level. The fourth pool, the Rural and Critical Access Payment Pool, distributes money first to Critical Access Hospitals by funding their Medicaid shortfall by calculating a ratio of each CAH hospital's Medicaid shortfall to the total Medicaid shortfall for all CAH hospitals. The pool then distributes money to rural hospitals based upon the ratio of the gap between a hospital's allocated funds and its hospital-specific OBRA 1993 payment cap to the total of all rural hospitals' payment gap. The fifth pool, the County Redistribution of Closed Hospitals Payment Pool only distributes money within a county if a hospital facility that is identifiable to a unique Medicaid provider number closed. If another hospital does not exist in that county, the money is instead distributed among hospitals in bordering counties. The available money is distributed to hospitals within a county (or bordering counties) based upon the ratio of that hospital's uncompensated care costs to the countywide (or border countywide) total. The sixth pool, the Children's Hospital Pool, provides funds to children's hospitals with room in their OBRA cap. The Statewide Residual Pool is the seventh pool. In this pool, if a hospital has received more in distributions than the OBRA cap allows, the excess money is subtracted, and then redistributed to hospitals with room in their OBRA cap.

The department estimates that this rule will increase payments to acute care hospitals by \$2.8 million from the FFY 09 levels on an aggregate basis because of a change in the state's federal match rate, an increase in the state's Federal Disproportionate Share allotment and a special allotment as provided by the AARA of 2009. Persons may obtain the proposed payment rates that result from these amendments upon request by calling the Hospital Section of the Bureau of Health Plan Policy at (614) 466-6420.

Copies of the proposed rules are available, without charge, to any person affected by the rule at the address listed below and at the county departments of job and family services. The rules are also available on the internet at <http://www.registerofohio.state.oh.us/>. A public hearing on the proposed rules will be held at the date, time, and location listed at the top of this notice. Either written or oral testimony will be taken at the public hearing. Additionally, written comments submitted or postmarked no later than the date of the public hearing will be treated as testimony.

Requests for a copy of the proposed rules or comments on the rules should be submitted by mail to the Ohio Department of Job and Family Services, Office of Legal Services, 30 East Broad Street, 31st Floor, Columbus, Ohio 43215-3414, by fax at (614) 752-8298, or by e-mail at rules@jfs.ohio.gov. Comments received may be reviewed at this address.