

Legal Notice of Public Hearing
Ohio Department of Job and Family Services

DATE: June 1, 2005
TIME: 10:00 a.m.
LOCATION: Room 3110B, Rhodes State Office Tower
30 East Broad St., Columbus, Ohio 43215

Pursuant to sections 5111.02 and 5112.03 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 its intent to amend the following rules:

Rule 5101:3-2-08 entitled Data policies for disproportionate share and indigent care adjustments for hospital services sets forth the data policies for the Hospital Care Assurance Program (HCAP). The rule is being proposed for amendment to add the definitions of the following costs: ambulance service, durable medical equipment sold and durable medical equipment rented, to aid in the exclusion of these costs along with skilled nursing, home health facility, hospice facility and other non-hospital costs from "total facility costs" to determine the hospital's "adjusted total facility costs."

Rule 5101:3-2-08.1 entitled Assessment rates sets forth the assessment rate for the Hospital Care Assurance Program (HCAP). This rule is being amended to establish the assessment rates and the cost levels to which those rates apply to fund HCAP for the 2005 program year.

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 2005.

The proposed distribution formula is updated to reflect more current hospital data, to make minor changes to the distribution formula, and to implement the increased hospital specific disproportionate share limit afforded to states for public hospitals, by the Medicare, Medicaid and SCHIP Benefits Improvement Act of 2000 (BIPA 2000). The proposed rule allows for increasing the amount of funds allocated to hospitals meeting the strictest definition of disproportionate share hospital (High DSH).

The proposed model distributes total HCAP dollars out of eight 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. This pool funds 100% of a hospital's DA costs and uncompensated care costs for patients under 100% of the federal poverty level, and provides funding to hospitals based upon the ratio of 30% of their uncompensated care costs for uninsured patients above poverty to 30% of the statewide total uncompensated care costs for uninsured patients above poverty. The fourth pool, the Rural

and Critical Access Payment Pool, distributes money first to Critical Access Hospitals by funding their Medicaid shortfall (up to an aggregate total of \$4.0 million for Critical Access Hospitals in this program year) 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 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 a distribution of funds capped at \$7.0 million to children's hospitals with room in their OBRA cap. The seventh pool, the Disproportionate Share Limit pool, provides a distribution of funds for uncompensated care costs reported by hospitals that have not received their maximum allowable amount through the first three pools. The Statewide Residual Pool is the eighth 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 distribution formula has also been modified to increase the number of comparisons to each hospital specific federally allowable maximum amount beginning with the first pool. This has the effect of distributing the majority of the dollars upfront and minimizes the amount of uncapped funds flowing through the distribution pools.

The OBRA payment cap has been updated to reflect 130% for state and public hospitals pursuant to federal law for Program Year 2005.

The department estimates that this rule will decrease payment to acute care hospitals by \$4,871,350 from the FFY 04 levels because of the change in the state's federal match rate.

Rule 5101:3-2-10 entitled Payment policies for disproportionate share and indigent care adjustments for psychiatric hospitals sets forth the conditions, requirements, and operation of the Institutions for Mental Diseases Disproportionate Share (IMD DSH) program, as well as the distribution formula. The rule is being amended to update a technical reference to another OAC rule which was modified. There are no changes to disproportionate share payment policies described in the rule.

The department estimates that this rule will not change payments to IMD hospitals from the FFY 04 levels as funding was established in the Balanced Budget Act of 1997.

The proposed rates resulting from the updated methodology and the updated hospital cost data, for acute care and psychiatric hospitals, are subject to change since the department anticipates additional changes to the data used in the proposed methodology. After the department has received all data changes, exact payment rates will be determined and will be available on line at <http://jfs.ohio.gov/ohp/bhpp/hbfm.stm>. The proposed rates, which are subject to data changes, are available upon request by calling the Hospital Unit of the Bureau of Health Plan Policy at 614-466-6420.

A copy of the proposed rules is available, without charge, to any person affected by the rules 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 legal@odjfs.state.oh.us. Comments received may be reviewed at this address.