

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

DATE: October 23, 2006
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 the department's intent to refile rules 5101:3-2-09 and 5101:3-2-08.1 for a projected effective date of November 30, 2006, and to file the same rules on an emergency basis to be effective on or about October 27, 2006 and of a public hearing thereon.

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. As originally filed on June 14, 2006, the proposed distribution formula was updated to increase the hospital specific disproportionate share limit to 110% for public hospitals afforded to states by the Medicare, Medicaid and SCHIP Benefits Improvement Act of 2000 (BIPA 2000), to reflect more current hospital data, to adjust the distribution of funds from the disability assistance medical and uncompensated care indigent care payment pool, and to reallocate funds from the rural access pool to the critical access hospital (CAH) pool in the amount of the funding received by newly designated 2006 CAH in the 2005 rural pool. Also, the rule was amended to include an additional reporting requirement regarding critical access hospital status and an additional requirement that hospitals submit their assessment amount via electronic funds transfer.

A public hearing was held on July 18, 2006. The written and oral testimony contained arguments both for and against the proposed increase of the hospital specific disproportionate share (DSH) limit to 110% for public hospitals. After the comment period expired, the department decided to pursue state plan approval for a DSH limit of 110%. However, the Center for Medicare and Medicaid Services (CMS), which was also reviewing the proposed rule as a state plan amendment, informed the department that it will not approve a DSH limit over 100% based on its interpretation of BIPA 2000. As a condition for state plan approval, paragraph (A)(28) is being changed to revise the state and non-state public hospitals disproportionate share limit from 110% as originally proposed, to 100%. Also as a condition for state plan approval, paragraph (I)(3), which is part of the disproportionate share pool calculation, is being revised to change the factor used to distribute funds to .0049. The new factor will be multiplied by the hospital's adjusted total facility costs. Previously, the factor was multiplied by the hospital's assessment amount.

The proposed amendment as refiled will not result in a net impact on aggregate annual expenditures. However, it will result in lower payments to some public hospitals and higher payments to some nonpublic and some public hospitals, from the originally proposed rule. Hospitals 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.

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 to establish the assessment rates and the cost levels that fund the Hospital Care Assurance Program (HCAP) for the 2006 program year.

Rule 5101:3-2-08.1 was originally filed on June 14, 2006 and a public hearing was held on July 18, 2006. However, the department intends to refile the rule and to file the rule on an emergency basis to make a technical change to the threshold applied to the assessment, which is necessary due to the finalization of cost report data.

Both rules are being filed on an emergency basis in order to make HCAP payments to hospitals by December of this year. Typically, payments are made in August or September of the program year, but state plan negotiations with CMS have caused delays. Both rules 5101:3-2-09 and 5101:3-2-08.1 will be refiled for a projected effective date of November 30, 2006. The department will hold another public hearing prior to the emergency and refiled rules becoming effective.

A copy of the proposed rules are 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 rules@odjfs.state.oh.us. Comments received may be reviewed at this address.