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

DATE: **February 16, 2010**
TIME: **10:00 a.m.**
LOCATION: **Room 2925, Rhodes State Office Tower**
30 East Broad St., Columbus, Ohio 43215-3414

Pursuant to section 5111.02 and Chapter 119. of the Ohio Revised Code, and 42 CFR 447.205, the director of the Ohio Department of Job and Family Services gives notice of the Department's intent to consider the adoption, amendment, or rescission of the rule or rules as identified below and of a public hearing thereon.

These rules are being amended to implement the new Healthcare Common Procedure Coding System (HCPCS) codes that are effective for dates of service on and after January 1, 2010, and to implement policy changes described further below.

HCPCS, which includes Current Procedural Technology (CPT) codes, is a medical procedure coding system that is the national standard for reporting medical services for billing and claims payment purposes. This coding system is used by Medicare, state Medicaid programs, private health insurance plans, and managed care plans. The Centers for Medicare and Medicaid Services (CMS), in conjunction with the American Medical Association and other professional groups, updates the HCPCS on an annual basis. The Department must implement the HCPCS updates for the Medicaid program to comply with the federal Health Insurance Portability and Accountability Act (HIPAA), which requires the use of a nationally standardized coding system (45 CFR 162.1000 and 45 CFR 162.1002).

Implementation of the annual HCPCS coding update by the Department requires Ohio Administrative Code (OAC) rule changes because HCPCS codes are included in OAC rules and/or their appendices that guide the Medicaid program. The following types of HCPCS code changes will be effective for dates of service on and after January 1, 2010: new codes added, obsolete codes deleted, and revised codes implemented; definitional changes; and associated reimbursement changes. New HCPCS codes correspond to services without existing codes or services with existing codes that have been simultaneously obsoleted. New HCPCS codes that correspond to services without prior existing codes require coverage and payment decisions that are reflected in appendix DD to rule 5101:3-1-60 of the OAC. Revised HCPCS codes correspond to services that have a revised definition.

Rules being amended to comply with HCPCS updates are as follows:

Rule 5101:3-1-19.3, entitled "General claim submission [except for services provided to consumers who are members of a Medicaid managed care program]," sets forth criteria for submitting claims to Ohio Medicaid. Changes include updating the references to HCPCS texts published by the American Medical Association. References to "Health

Care Common Procedure Coding System HCPCS 2008" (1/08 edition) and the "Health Care Common Procedure Coding System HCPCS 2009" (1/09 edition) are replaced with references to "Health Care Common Procedure Coding System HCPCS 2009" (1/09 edition) and "Health Care Common Procedure Coding System HCPCS 2010" (1/10 edition), respectively. The codes found in the replacement references are effective for dates of service January 1, 2009 through December 31, 2009, and for dates of services January 1, 2010 through December 31, 2010, respectively. The Department estimates that there is no fiscal impact resulting from these changes.

Rule 5101:3-1-60, entitled "Medicaid reimbursement," sets forth the reimbursement policies for all professional providers. Changes include the addition of new HCPCS codes, deletion of obsolete HCPCS codes, and revision of definitions. Changes also include the creation of maximum payment amounts for the HCPCS codes and discontinuing the amounts for HCPCS codes obsoleted. Some of the coding changes require amendments to existing policy on coverage. The Department estimates that there is no fiscal impact resulting from these changes.

In addition to being amended to accommodate the HCPCS update, rule 5101:3-1-60 must be amended to implement a pharmacy carve out for the Medicaid Managed Health Care Program. Under the proposed carve out, Medicaid managed care plans (MCPs) will no longer be responsible for providing pharmacy services and certain medical supplies (including diabetic testing supplies, supplies for self-injection of medication, inhaler spacers, and peak flow meters) to their members and will no longer receive capitation payments that include prescribed drugs and certain medical supplies provided through pharmacies. Instead, pharmacy providers under contract with the Department will be reimbursed directly for dispensing prescribed drugs and certain supplies to MCP enrollees. These changes to the rule include ending coverage for the codes that correspond to medical supplies removed from the durable medical equipment (DME) benefit by rule 5101:3-10-03 since they will instead be covered under the pharmacy benefit and no longer provided by DME providers. As a result of these changes, only pharmacies under contract with the Department will be able to provide the impacted supplies to Medicaid consumers. The Department estimates that there is no fiscal impact resulting from these changes.

This rule is also being amended to relocate from Appendix DD of this rule to Appendices A and B of OAC rule 5101:3-4-12 codes corresponding to coverage and reimbursement of vaccines.

Rule 5101:3-2-21, entitled "Policies for outpatient hospital services," sets forth covered hospital outpatient services, including reimbursement. Changes include the addition of new HCPCS codes, deletion of obsolete HCPCS codes, and updates to the fee schedules for new 2010 HCPCS codes. The Department estimates that there is no fiscal impact resulting from these changes.

Changes also include updating language to be date-specific with regard to revenue center code 0636 and adding CPT codes for services that were previously inpatient only. The Department estimates that there is no fiscal impact resulting from these changes.

Rule 5101:3-4-22, entitled "Surgical services," sets forth coverage provisions for these services provided by physician providers of Medicaid services. Changes include the addition of new HCPCS codes, deletion of obsolete HCPCS codes, revision of definitions, and updates to the fee schedules for new 2010 HCPCS codes. The Department estimates that there is no fiscal impact resulting from these changes.

Changes also include updating the appendices of this rule to designate which codes may be billed with modifiers for bilateral surgery, multiple surgery, and assistant at surgery. The Department estimates that there is no fiscal impact resulting from these changes.

Rule 5101:3-10-03, entitled "Medicaid Supply List," sets forth the list of durable medical equipment and supplies covered by the Medicaid program. This rule must be amended to implement the pharmacy carve out. Changes to the rule include removing from the supply list certain supplies that will no longer be considered part of the DME benefit, but will instead be considered part of the pharmacy benefit and no longer provided by DME providers. As a result of these changes, only pharmacies under contract with the Department will be able to provide the impacted supplies to Medicaid consumers. The Department estimates that there is no fiscal impact resulting from these changes.

Rule 5101:3-10-03 must also be amended to reduce the allowable monthly quantity of incontinence garments. This change is in accordance with a cost-containment initiative mandated by Amended Substitute House Bill 1, which requires the Department to reduce reimbursement to providers for specified services on January 1, 2010, by an aggregate amount equal to 3% less than was paid using rates in effect on December 31, 2009. Changes to the rule include reducing the monthly maximum allowable quantity of incontinence garments that may be dispensed to an adult Medicaid consumer in a benefit period. The Department estimates that there is a fiscal impact related to the medical supply limit reduction. The Department estimates that it will experience an annual reduction in expenditures in the amount of approximately $2.1 million.

A copy of each rule 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 rule(s) 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 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.