

CSI - Ohio

The Common Sense Initiative

Business Impact Analysis

Agency Name: Ohio Department of Medicaid

Regulation/Package Title: BHPP Children's Hospitals Quality Outcomes Program

Rule Number(s): 5160-2-70

Date: January 21, 2015

Rule Type:

☒ New

☐ Amended

☐ 5-Year Review

☐ Rescinded

The Common Sense Initiative was established by Executive Order 2011-01K and placed within the Office of the Lieutenant Governor. Under the CSI Initiative, agencies should balance the critical objectives of all regulations with the costs of compliance by the regulated parties. Agencies should promote transparency, consistency, predictability, and flexibility in regulatory activities. Agencies should prioritize compliance over punishment, and to that end, should utilize plain language in the development of regulations.

Regulatory Intent

1. Please briefly describe the draft regulation in plain language.

Please include the key provisions of the regulation as well as any proposed amendments.

Rule 5160-2-70 sets forth the requirements for participation in the Children's Hospitals Quality Outcomes Program (CHQP). The rule details the goals of CHQP which requires participating children's hospitals to actively engage in quality efforts to reduce harm and improve quality of care. In order to qualify for payment, participating children's hospitals

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must submit documentation to the Ohio Department of Medicaid (Department) to verify its participation in CHQP.

Participating children's hospitals are expected to receive approximately \$16 million in payments. This is a program that the children's hospitals asked the administration and legislature to create.

2. Please list the Ohio statute authorizing the Agency to adopt this regulation.

Section 323.40 of Am. Sub. H.B. 59 of the 130th General Assembly.

3. Does the regulation implement a federal requirement? Is the proposed regulation being adopted or amended to enable the state to obtain or maintain approval to administer and enforce a federal law or to participate in a federal program?

If yes, please briefly explain the source and substance of the federal requirement.

The proposed rule does not implement a federal requirement.

4. If the regulation includes provisions not specifically required by the federal government, please explain the rationale for exceeding the federal requirement.

The requirements of the proposed rule are not related to a federal requirement.

5. What is the public purpose for this regulation (i.e., why does the Agency feel that there needs to be any regulation in this area at all)?

The public purpose of this regulation is to provide the Department with documentation from participating children's hospitals to verify they have actively engaged in quality efforts to reduce harm and to improve quality of care. Based on this verification, payment will be made as described in this rule.

6. How will the Agency measure the success of this regulation in terms of outputs and/or outcomes?

The Department will measure the success of this regulation by the improvement of quality outcomes and the reduction of harm to patients in children's hospitals. Participating children's hospitals will be required to submit documentation to the Department in order to verify their participation in implementing quality efforts to reduce harm.

Development of the Regulation

7. Please list the stakeholders included by the Agency in the development or initial review of the draft regulation.

If applicable, please include the date and medium by which the stakeholders were initially contacted.

From the onset, the Ohio Children's Hospital Association (OCHA) has been actively involved in the development of this regulation. OCHA has reviewed the draft regulation prior to the commencement of the rule filing process. The regulation will also be offered for

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public comment during the Department's rule filing process. The regulation will be updated based on comments received during this process.

8. What input was provided by the stakeholders, and how did that input affect the draft regulation being proposed by the Agency?

Comments and edits from OCHA were considered and incorporated into the draft regulation. OCHA and ODM agreed to remove the quality effort #5 “Adolescent Well Checks” and replace with “Provider Preventable Readmissions” (PPR).

9. What scientific data was used to develop the rule or the measurable outcomes of the rule? How does this data support the regulation being proposed?

The participating hospitals will be required to submit documentation to the Department in order to verify their quality efforts to reduce harm. The outcomes can be measured by a decrease in harmful events, which can be detected through information reported on submitted claims to the Department.

10. What alternative regulations (or specific provisions within the regulation) did the Agency consider, and why did it determine that these alternatives were not appropriate? If none, why didn't the Agency consider regulatory alternatives?

The Department did not consider alternative regulations, as this is a new program for children's hospitals and participation is purely voluntary. The intent of the program is to provide incentives to children's hospitals for improving quality outcomes for Medicaid consumers.

11. Did the Agency specifically consider a performance-based regulation? Please explain.

No, performance-based regulations define the required outcome, but don't dictate the process the regulated stakeholders must use to achieve compliance.

12. What measures did the Agency take to ensure that this regulation does not duplicate an existing Ohio regulation?

Ohio Administrative Code (OAC) rule 5160-2-70 is the only regulation that implements a children's hospital quality outcomes program. This rule was developed specifically for the reporting of children's hospitals to participate in a program to reduce harm and improve the quality of care. It has been reviewed by the Bureau of Health Plan Policy, Department of Medicaid and ODM Legal Counsel to ensure that duplication does not exist.

13. Please describe the Agency's plan for implementation of the regulation, including any measures to ensure that the regulation is applied consistently and predictably for the regulated community.

This rule is a voluntary program for which Ohio's children's hospitals may participate and verify to the Department they are actively engaging in quality efforts to reduce harm as

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detailed in the rule. Any children's hospital that submits verification to the Department will be treated consistently for payment purposes, as outlined in the rule.

Adverse Impact to Business

14. Provide a summary of the estimated cost of compliance with the rule. Specifically, please do the following:

a. Identify the scope of the impacted business community;

The scope of the impacted business community is any Ohio children's hospital that chooses to participate in this program.

b. Identify the nature of the adverse impact (e.g., license fees, fines, employer time for compliance); and

There is no adverse impact since this is a voluntary program for Ohio children's hospitals above and beyond their normal participation in the Medicaid program. All Ohio children's hospitals can elect to participate.

c. Quantify the expected adverse impact from the regulation.

This a voluntary program and any adverse impact from paperwork or reporting requirements will be minimal, as the children's hospitals are already reporting on most of the quality measures identified in the regulation. Hospitals that choose not to submit documentation to the department stand to lose their share of approximately \$16 million.

15. Why did the Agency determine that the regulatory intent justifies the adverse impact to the regulated business community?

Since children's hospitals are already collecting and submitting this data to the Department of Health and CMS, the department determined that it would not be an undue burden on the participating hospitals to submit this data to ODM.

Regulatory Flexibility

16. Does the regulation provide any exemptions or alternative means of compliance for small businesses? Please explain.

No, this is a voluntary program, and the means of compliance are documented within the rule.

17. How will the agency apply Ohio Revised Code section 119.14 (waiver of fines and penalties for paperwork violations and first-time offenders) into implementation of the regulation?

There are no fines or penalties associated with the implementation of these rules.

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18. What resources are available to assist small businesses with compliance of the regulation?

Children's hospitals may contact OCHA or email questions or concerns to the Ohio Department of Medicaid at Hospital_Policy@medicaid.ohio.gov.