

**PUBLIC HEARING NOTICE
OHIO DEPARTMENT OF MEDICAID**

DATE: 09/16/2019
TIME: 11:30 AM
LOCATION: Room A401, Lazarus Building
50 W Town St., Columbus, Ohio 43215

Pursuant to section 5164.02 and Chapter 119. of the Ohio Revised Code, the director of the Ohio Department of Medicaid (department) 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.

TO BE RESCINDED

Rule 5160-1-13.1, entitled Medicaid consumer liability, has been reviewed as part of the five-year review process and is being proposed for rescission as greater than fifty percent of the rule has been revised. It will be replaced with new rule 5160-1-13.1 entitled Medicaid recipient liability. This rule establishes what constitutes payment in full to a provider for Medicaid services rendered to a Medicaid recipient. This rule also explains under which conditions a provider may or cannot bill the Medicaid recipient for medical services.

TO BE ADOPTED

Rule 5160-1-13.1, entitled Medicaid recipient liability, is being proposed for adoption to replace the existing rule which is being proposed for rescission. This rule establishes what constitutes payment in full to a provider for Medicaid services rendered to a Medicaid recipient. This rule also explains under which conditions a provider can or cannot bill the Medicaid recipient for medical services.

The new rule updates all references to a 'consumer' to a 'Medicaid recipient' to reflect current terminology. It cites 42 CFR 447.15 to clarify the federal authority under which Medicaid payment constituting payment in full resides. Patient liability was added to instances where a Medicaid recipient may be asked to share in the cost of care. Based on a Center for Medicare and Medicaid Services (CMS) clarification, the requirement that providers cannot bill for missed appointment fees was added. The first paragraph was also reordered for clarity and the word 'may' was replaced with 'shall' in paragraph (A)(1) since these requirements are federally mandated for Medicaid providers.

A clarification for providers was added regarding an individual being financially responsible for payment of services if the individual is not covered by Medicaid or eligible for the hospital care assurance program (HCAP) on the date of service. The rule further clarifies that where Medicaid eligibility is provided retroactively, the individual may not be held financially responsible if the eligibility span includes the date of service. A provision was added to the rule to prohibit a provider from billing a Medicaid recipient for a prescription for a controlled substance instead of submitting a claim. This provision

was added to aid in preventing opioids and other controlled substances from being paid for with cash to bypass the protections built into the Medicaid claim payment system. Instances of incorrect grammar were corrected. The provision when providers may bill a Medicaid recipient was reworded and reorganized for clarity.

Copies of the proposed rules are available, without charge, at the address listed below. 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. Both written and oral testimony will be taken at the public hearing. Written testimony 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 and testimony on the rules should be submitted by mail to the Ohio Department of Medicaid Rule Administrator, Office of Chief Legal Counsel, 50 W. Town St., Suite 400, Columbus, Ohio 43215-3414, by fax at (614) 995-1301, or by e-mail at Rules@Medicaid.Ohio.gov. Testimony received may be reviewed at this address.