

CSI - Ohio

The Common Sense Initiative

Business Impact Analysis

Agency Name: Ohio Department of Medicaid

Regulation/Package Title: Medicaid: Presumptive Eligibility

Rule Number(s): 5160:1-1-62 Rescinded and 5160: 1-2-13 New

Date: 8/17/16

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☒ Rescinded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.

This rule describes the criteria for presumptive determinations of Medicaid eligibility for several covered groups. Presumptive eligibility provides a time-limited Medicaid benefit that allows applicants to receive needed health care while awaiting a full determination of Medicaid eligibility.

Presumptive eligibility determinations can be performed by Qualified Entities who have elected to participate in the presumptive eligibility program. Current Qualified Entities include hospitals, federally qualified health centers (FQHC), and FQHC look-alikes.

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Proposed changes include the addition of local health departments, WIC clinics, and other entities as designated by the director.

Administrative Code numbers have also been updated due to rule renumbering within the Ohio Department of Medicaid.

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

Ohio Revised Code sections 5163.02.

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 regulation implements a state option as set forth in Section 1920 and 1920A of the Social Security Act to allow applicants to receive needed health care while awaiting a full determination of Medicaid eligibility.

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

This provision does not exceed federal requirements.

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 purpose of this regulation is to allow applicants to receive needed health care while awaiting a full determination of Medicaid eligibility.

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

The successful output/outcome is determined by the accuracy of the presumptive eligibility determinations performed by Qualified Entities who have elected to participate in the presumptive eligibility program. The accuracy of those determinations is ascertainable by regular reviews of the presumptive eligibility determinations the Qualified Entities have completed.

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.

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Presumptive Eligibility was discussed during the Large Provider Group meetings held quarterly (December 4, 2015, March 11, 2016, and June 17, 2016.) The Large Provider Group includes the large hospitals in Ohio, physician groups, Ohio Hospital Association, and the managed care plans.

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

The ideas and input from our stakeholders influenced the training materials, technical assistance availability, and simplicity of requirements in rule.

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 use of scientific data is not applicable to the requirements of this rule.

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?

This rule implements a state option as set forth in Section 1920 and 1920A of the Social Security Act. As such, there are no other applicable alternative regulations for the Agency to consider.

11. Did the Agency specifically consider a performance-based regulation? Please explain. *Performance-based regulations define the required outcome, but don't dictate the process the regulated stakeholders must use to achieve compliance.*

A performance-based regulation is not applicable to this rule.

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

The Agency performed a review of the Ohio Administrative Code. Regulations regarding presumptive eligibility determinations for Medicaid exist only in Division 5160:1 of the Administrative Code. Further, under Ohio Revised Code Sections 5162.022 and 5162.03, the Ohio Department of Medicaid is the single state agency to supervise the administration of the Medicaid program, and its regulations governing Medicaid are binding on other agencies that administer components of the Medicaid program. No agency may establish, by rule or otherwise, a policy governing Medicaid that is inconsistent with a Medicaid policy established, in rule or otherwise, by the medical assistance director.

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.

Qualified Entities complete online training and sign an acknowledgement form to ensure correct determination of Presumptive Eligibility. Additionally, Qualified Entities have access to technical assistance and training material on the Ohio Department of Medicaid website.

The Agency will ascertain the accuracy of presumptive determinations made by Qualified Entities by performing regular reviews of the presumptive eligibility determinations the Qualified Entities have completed.

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 segment of the business community targeted by this regulation are medical providers that already have Medicaid provider agreements in place with the Agency, and that have chosen to participate in the Presumptive Eligibility program as Qualified Entities.

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

Any adverse impact caused by this regulation would be employer time for compliance. Based on the simplicity of the provider portal and the training provided to Qualified Entities, a minimal amount of time is needed to achieve compliance.

c. Quantify the expected adverse impact from the regulation.

The adverse impact can be quantified in terms of dollars, hours to comply, or other factors; and may be estimated for the entire regulated population or for a "representative business." Please include the source for your information/estimated impact.

It is estimated that Qualified Entities will spend less than five minutes per uninsured individual to presumptively determine the patient's Medicaid eligibility and enroll that individual in Medicaid via the Provider Portal. This estimate was obtained from both the Agency staff and employees of Qualified Entities directly involved in the training process for Qualified Entities in Medicaid eligibility requirements and in the use of the Provider Portal, upon implementation of a prior version of this rule. Since the process Qualified Entities complete to presumptively determine an individual's Medicaid eligibility and enroll that individual in Medicaid via the Provider Portal has

not changed, this time estimate still accurately measures the adverse impact produced by this regulation.

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

The parts of the regulation triggering this analysis were not changed from previous versions, and is already a standard business practice for Medicaid providers. This regulation creates an advantage for providers, in that many of their uninsured patients can become covered on the spot, therefore assuring the provider of receiving payment for the services it has rendered.

Regulatory Flexibility

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

No. The Medicaid eligibility criteria are set forth in federal statute and regulation, and the Agency has developed an electronic system which will determine Medicaid eligibility on a presumptive basis in accordance with those federal requirements. As such, the Agency is not assured that alternate means of compliance would result in acceptably accurate eligibility determinations.

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?

This is not applicable since there are no fines or penalties associated with non-compliance.

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

Medicaid providers in need of technical assistance can contact Medicaid Provider Assistance at 1-800-686-1516.

Medicaid Provider Assistance materials are also available at

<http://medicaid.ohio.gov/PROVIDERS/EnrollmentandSupport/ProviderAssistance.aspx>