

Title of Rule: Revision to the Health Programs Office Benefits and Operations
Division Ambulatory Surgery Center (ASC) Rule Concerning
Amount, Scope and Duration of Services, Section 8.570.5
Rule Number: MSB 15-02-11-A
Division / Contact / Phone: HPO B&O / Ana Lucaci / x6163

STATEMENT OF BASIS AND PURPOSE

1. Summary of the basis and purpose for the rule or rule change. (State what the rule says or does and explain why the rule or rule change is necessary).

The purpose of this update is to clarify language in the Non-Covered Services section to comply with the Department's Benefit Coverage Standard (BCS).

2. An emergency rule-making is imperatively necessary
- to comply with state or federal law or federal regulation and/or
- for the preservation of public health, safety and welfare.

Explain:

3. Federal authority for the Rule, if any:

§1905(a) of the Social Security Act, codified at 42 U.S.C. 1396d(a)(2); 42 CFR Section 440.230.

4. State Authority for the Rule:

§§25.5-1-301 through 25.5-1-303, C.R.S. (2014);

Initial Review **03/13/2015**
Proposed Effective Date **05/30/2015**

Final Adoption **04/10/2015**
Emergency Adoption

DOCUMENT #01



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REGULATORY ANALYSIS

1. Describe the classes of persons who will be affected by the proposed rule, including classes that will bear the costs of the proposed rule and classes that will benefit from the proposed rule.

This rule will impact the Providers of ASC services and Medicaid Clients.

2. To the extent practicable, describe the probable quantitative and qualitative impact of the proposed rule, economic or otherwise, upon affected classes of persons.

Clearly defined and updated rules will improve client access to appropriate, high quality, cost-effective and evidence-based services while improving the health outcomes of Medicaid clients. Established criteria within the rule will provide guidance to clients and providers regarding benefit coverage. Medicaid covered residents will also be better served with clear transparent description of the ASC benefit.

3. Discuss the probable costs to the Department and to any other agency of the implementation and enforcement of the proposed rule and any anticipated effect on state revenues.

This rule does not have any costs to the Department or any other agency as a result of its implementation and enforcement.

4. Compare the probable costs and benefits of the proposed rule to the probable costs and benefits of inaction.

Clearly defined and updated rules increase client access to appropriate services and allow the Department to administer benefits in compliance with federal and state regulations, as well as clinical best practices and quality standards. Defining this benefit in rule will educate clients about their benefits and provide better guidance to service providers. The cost of inaction could result in decreased access to services, poor quality of care, and/or lack of compliance with state and federal guidance.

All of the above translates into appropriate cost-effective care administered by the state.

5. Determine whether there are less costly methods or less intrusive methods for achieving the purpose of the proposed rule.

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There are no less costly methods or less intrusive methods for achieving the purpose of this rule. The department must appropriately define amount, scope and duration of this benefit in order to responsibly manage it.

6. Describe any alternative methods for achieving the purpose for the proposed rule that were seriously considered by the Department and the reasons why they were rejected in favor of the proposed rule.

There are no alternative methods for achieving the purpose of the proposed rule. The Department also documents its benefit coverage policies in written coverage standards. The benefit coverage policies must be written into rule to have the force of law.

1 **8.570.5 NON-COVERED SERVICES**

2 8.570.5.A Non-covered services are those services that:

- 3 1. Are not commonly performed in an ASC;
- 4 ~~2.~~ 2. ~~or M~~ay safely be performed in a physician's office;
- 5 3. Generally result in extensive blood loss;
- 6 ~~4.~~ 4. Require major or prolonged invasion of body cavities;
- 7 ~~5.~~ 5. Directly involve major blood vessels; ~~or~~
- 8 ~~6.~~ 6. Are generally emergency or life-threatening in nature; ~~or~~
- 9 ~~7.~~ 7. Pose a significant safety risk to clients or are expected to require active medical
10 monitoring at midnight of the day on which the surgical procedure is performed
11 (overnight stay) when furnished in an ASC; ~~or~~ ~~or~~
- 12 ~~8.~~ 8. Are not listed in the annual ASC billing manual.

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