

Title of Rule: Revision to the Medical Assistance Rule for Outpatient Hospital Reimbursement, Section 8.300.6  
Rule Number: MSB 15-05-04-A  
Division / Contact / Phone: Payment Reform / Andrew Abalos / 2130

## 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).

On April 24, 2015, Governor Hickenlooper signed Senate Bill 15-234, which set the Colorado state budget for FY 2015-16. After much debate by the General Assembly, the signed budget includes reimbursement increases for Medicaid providers, including hospitals. As a result, Medicaid hospitals are receiving a 0.5% increase in their reimbursement rate for outpatient services. This outpatient reimbursement rate change requires a new rule since the rate history is included in the regulation for cost settlement purposes. Currently, hospitals are reimbursed at 71.6% of cost for outpatient services (excluding those services reimbursed based upon the fee schedule such as lab, physical therapy, and occupational therapy). Effective July 1, 2015, the proposed rule will change the reimbursement to 72% of cost, which represents a payment increase of 0.5% as required by Senate Bill 15-234.

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:

The purpose of this rule is to comply with state law, specifically the mandates of Senate Bill 15-234.

3. Federal authority for the Rule, if any:

42 U.S.C. 1396a(a)(30)(A);  
42 C.F.R. 447.321

4. State Authority for the Rule:

25.5-1-301 through 25.5-1-303, C.R.S. (2014);  
24-4-103(6), C.R.S., (2014), 25.5-4-402.3(4)(B)(I) C.R.S (2014); 10 CCR 2505-10  
8.300.6; SB 15-234

Initial Review

Proposed Effective Date

**07/01/2015**

Final Adoption

Emergency Adoption

  
**06/12/2015**

**DOCUMENT #03**

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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.

Hospitals will receive increased reimbursement for outpatient services provided to Medicaid clients. These costs have already been accounted for in the state budget for FY 2015-16 through Senate Bill 15-234.

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

Reimbursement to hospitals for outpatient services is estimated to increase by \$2,554,824 for FY 2015-16 as a result of the 0.5% rate increase. The increase contained in this rule will allow hospitals who underwent several years of rate cuts to recuperate more of their costs of providing services to Medicaid clients and potentially provide improved services to more recipients.

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 would cost the Department approximately \$2,554,824 in FY 2015-16 for the increased reimbursement to hospitals. These costs have already been accounted for in the state budget for FY 2015-16 through Senate Bill 15-234. There are no additional costs to the Department or any other agency due to the implementation and enforcement of the proposed rule.

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

The proposed rule will allow the Department to increase reimbursement to hospitals for outpatient services provided to Medicaid clients as required in Senate Bill 15-234. Hospitals will receive a 0.5% rate increase, which will be funded by both state and federal dollars. Inaction would leave the Department out of compliance with state legislation, and Hospitals would continue to receive reimbursement at current levels.

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

Senate Bill 15-234 mandates across-the-board rate increases for most Medicaid providers effective 7/1/2015. There are no methods for achieving the purpose of the proposed rule that are less costly or less intrusive.

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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.

Senate Bill 15-234 mandates across-the-board rate increases for most Medicaid providers effective 7/1/2015. There are no methods for achieving the purpose of the proposed rule that are less costly or less intrusive.

## 8.300.6 Payments For Outpatient Hospital Services

### 8.300.6.A Payments to DRG Hospitals for Outpatient Services

#### 1. Payments to In-Network Colorado DRG Hospitals

Excluding items that are reimbursed according to the Department's fee schedule, Outpatient Hospital Services are reimbursed on an interim basis at actual billed charges multiplied by the Medicare cost-to-charge ratio less 28%. When the Department determines that the Medicare cost-to-charge ratio is not representative of a Hospital's Outpatient costs, the cost-to-charge ratio may be calculated using historical data. A periodic cost audit is done and any necessary retrospective adjustment is made to bring reimbursement to the lower of actual audited Medicaid cost less 28% or billed charges less 28%.

Effective September 1, 2009, Outpatient Hospital Services are reimbursed on an interim basis at actual billed charges times the Medicare cost-to-charge ratio less 29.1 percent (29.1%). When the Department determines that the Medicare cost-to-charge ratio is not representative of a hospital's outpatient costs, the cost-to-charge ratio may be calculated using historical data. A periodic cost audit is done and any necessary retrospective adjustment is made to bring reimbursement to the lower of actual audited cost less 29.1 percent (29.1%) or billed charges less 29.1 percent (29.1%).

Effective January 1, 2010, Outpatient Hospital Services are reimbursed on an interim basis at actual billed charges times the Medicare cost-to-charge ratio less 30 percent (30%). When the Department determines that the Medicare cost-to-charge ratio is not representative of a hospital's outpatient costs, the cost-to-charge ratio may be calculated using historical data. A periodic cost audit is done and any necessary retrospective adjustment is made to bring reimbursement to the lower of actual audited cost less 30 percent (30%) or billed charges less 30 percent (30%).

Effective July 1, 2010, Outpatient Hospital Services are reimbursed on an interim basis at actual billed charges times the Medicare cost-to-charge ratio less 30.7 percent (30.7%). When the Department determines that the Medicare cost-to-charge ratio is not representative of a hospital's outpatient costs, the cost-to-charge ratio may be calculated using historical data. A periodic cost audit is done and any necessary retrospective adjustment is made to bring reimbursement to the lower of actual audited cost less 30.7 percent (30.7%) or billed charges less 30.7 percent (30.7%).

Effective July 1, 2011, Outpatient Hospital Services are reimbursed on an interim basis at actual billed charges times the Medicare cost-to-charge ratio less 31.2 percent (31.2%). When the Department determines that the Medicare cost-to-charge ratio is not representative of a hospital's outpatient costs, the cost-to-charge ratio may be calculated using historical data. A periodic cost audit is done and any necessary retrospective adjustment is made to bring reimbursement to the lower of actual audited cost less 31.2 percent (31.2%) or billed charges less 31.2 percent (31.2%).

Effective July 1, 2013, Outpatient Hospital Services are reimbursed on an interim basis at actual billed charges times the Medicare cost-to-charge ratio less 29.8 percent (29.8%). When the Department determines that the Medicare cost-to-

1 charge ratio is not representative of a hospital's outpatient costs, the cost-to-  
2 charge ratio may be calculated using historical data. A periodic cost audit is done  
3 and any necessary retrospective adjustment is made to bring reimbursement to  
4 the lower of actual audited cost less 29.8 percent (29.8%) or billed charges less  
5 29.8 percent (29.8%).

6 Effective July 1, 2014, Outpatient Hospital Services are reimbursed on an interim  
7 basis at actual billed charges times the Medicare cost-to-charge ratio less 28.4  
8 percent (28.4%). When the Department determines that the Medicare cost-to-  
9 charge ratio is not representative of a hospital's outpatient costs, the cost-to-  
10 charge ratio may be calculated using historical data. A periodic cost audit is done  
11 and any necessary retrospective adjustment is made to bring reimbursement to  
12 the lower of actual audited cost less 28.4 percent (28.4%) or billed charges less  
13 28.4 percent (28.4%).

14 Effective July 1, 2015, Outpatient Hospital Services are reimbursed on an interim  
15 basis at actual billed charges times the Medicare cost-to-charge ratio less 28  
16 percent (28%). When the Department determines that the Medicare cost-to-  
17 charge ratio is not representative of a hospital's outpatient costs, the cost-to-  
18 charge ratio may be calculated using historical data. A periodic cost audit is done  
19 and any necessary retrospective adjustment is made to bring reimbursement to  
20 the lower of actual audited cost less 28 percent (28%) or billed charges less 28  
21 percent (28%).

22 2. Payments to Out-of-Network DRG Hospitals

23 Excluding items that are reimbursed according to the Department's fee schedule,  
24 border-state Hospitals and out-of-network Hospitals, including out-of-state  
25 Hospitals, shall be paid 30% of billed charges for Outpatient Hospital Services.  
26 Consideration of additional reimbursement shall be made on a case-by-case  
27 basis in accordance with supporting documentation submitted by the Hospital.

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