

Title of Rule: Revision to the Medical Assistance Health Programs Rule Concerning Rural Health Clinics, Reimbursement, Section 8.740.7
Rule Number: MSB 15-10-19-A
Division / Health Programs Benefits & Operations Division
Contact/Phone: Amanda Forsythe/x6459

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 current rule language limits RHC reimbursement to a prospective payment for all services provided to a client during a single visit. Reimbursing at this per visit encounter rate does not adequately compensate RHCs for the expense of providing LARC. The proposed rule revision is intended to facilitate better access to LARC for Colorado Medicaid clients living in areas serviced by RHCs, by ensuring adequate reimbursement for the provision of LARC. Carving out reimbursement for LARC from the prospective payment model will increase the payment rate to RHCs for providing LARC to Colorado Medicaid; this will in turn increase the availability of these services and contraceptives to Colorado Medicaid clients in areas served by RHCs.

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:

Social Security Act §1905(a)(2)(B) and §1902(bb)

4. State Authority for the Rule:

25.5-1-301 through 25.5-1-303, C.R.S. (2015);
C.R.S. 25.5-4-401; and C.R.S. 25.5-5-102(1)

Initial Review
Proposed Effective Date

12/11/2015
03/30/2016

Final Adoption
Emergency Adoption

02/12/2016

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.

The proposed amendment will benefit Colorado Medicaid-eligible women of childbearing age residing in areas served by RHCs. The Federal Government will bear the bulk of the costs based on the federal financial participation (FFP) of 90% for family planning services. The state will bear the remaining costs (10%) which will be offset by savings from preventing unintended pregnancies.

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

The probable impact of this amendment will be the expansion of access to LARC for Colorado Medicaid-eligible women of childbearing age residing in areas served by RHCs. The Colorado Department of Public Health and Environment estimates that each \$1 spent on LARC avoids \$5.85 in future costs. https://www.colorado.gov/pacific/sites/default/files/HPF_FP_UP-Cost-Avoidance-and-Medicaid.pdf. In addition, avoiding unintended pregnancies increases the ability of families to lift themselves out of poverty.

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.

The probable cost to the Department of the proposed rule amendment is \$133,258 for Federal Fiscal Year 2016. There are no other probable costs associated with the implementation or enforcement of the proposed amendment, to the Department or other agency.

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

The probable costs of inaction are related to the unplanned pregnancies for Colorado Medicaid clients residing in areas served by Rural Health Clinics. The costs of inaction include more unintended pregnancies in rural areas. Benefits of inaction are no spending increases in the short term.

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

The purpose of the proposed rule is to increase the availability of long acting reversible contraceptives to the Medicaid members that reside in rural areas. A Rural Health Clinic is often the only provider in the geographic area it serves and the current reimbursement methodology of only paying the Medicare rate for an inclusive visit restricts access of the Medicaid members to long acting reversible contraceptives. There is no method to increase the number of providers that receive fee schedule reimbursement in these areas. Changing the RHC reimbursement to pay for long acting reversible contraceptives increases the access of this device in the rural areas.

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.

The Department worked with the Colorado Department of Public Health and Environment to secure alternative funding from the state legislature to continue a statewide program of providing long acting reversible contraceptives in Title X clinics at little or no cost to the patient. The law that would allow funding was not passed by the legislature. That alternative method to achieve the purpose was rejected by the legislature which led to the determination to amend the State Plan to allow for Medicaid reimbursement through the fee schedule.

1 **8.740.7 REIMBURSEMENT**

2 8.740.7.A. The Department shall reimburse Rural Health Clinics a per visit encounter rate.
3 Encounters with more than one health professional, and multiple encounters with the
4 same health professional that take place on the same day and at a single location
5 constitute a single visit, except when the client, after the first encounter, suffers illness or
6 injury requiring additional diagnosis or treatment.

7 8.740.7.B. The encounter rate shall be the higher of:

8 1. The Prospective Payment System (PPS), as defined by Section 702 of the
9 Medicare, Medicaid and SCHIP Benefits Improvement and Protection Act (BIPA)
10 included in the Consolidated Appropriations Act of 2000, Public Law 106-554,
11 BIPA is incorporated herein by reference. No amendments or later editions are
12 incorporated. The Acute Care Benefits Section Manager at the Colorado
13 Department of Health Care Policy and Financing may be contacted at 1570
14 Grant Street, Denver, Colorado 80203, for a copy of BIPA, or the materials may
15 be examined at any publications depository library.

16 2. The Medicare rate.

17 a. The Medicare rate for hospital based Rural Health Clinics with ~~less~~ fewer
18 than 50 beds shall be based on actual costs.

19 b. The Medicare rate for all other Rural Health Clinics is the Medicare upper
20 payment limit for Rural Health Clinics.

21 8.740.7.C. The Department will reimburse Long-Acting Reversible Contraception (LARC)
22 and Non-surgical Transcervical Permanent Female Contraceptive Devices separate from
23 the Rural Health Clinic per visit encounter rate. Reimbursement will be the lower of:

24 1. 340B acquisition costs;

25 2. Submitted charges; or

26 3. Fee schedule as determined by the Department.

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