DSS ID # 12-16

AGENCY FISCAL ESTIMATE OF PROPOSED REGULATIONS

AGENCY SUBMITTING REGULATION Department of Social Services DATE 6/22/2016

SUBJECT MATTER OF REGULATION Requirements Concerning Outpatient Hospital Services

REGULATION SECTION NO. 17b-26-900 to 911 STATUTORY AUTHORITY 17b-239, 17b-3,17b-262

OTHER AGENCIES AFFECTED

EFFECTIVE DATE USED IN COST ESTIMATE July 1, 2016

ESTIMATE PREPARED BY Nick Venditto

QUESTIONS SHOULD BE ADDRESSED TO Michael Gilbert TELEPHONE 424- 5841

SUMMARY OF STATE COST AND REVENUE IMPACT OF PROPOSED REGULATION

Agency Department of Social Services Fund Affected General

	SFY 2017	SFY 2018
Number of Positions		
Personal Services		
Other Expenses		
Equipment		
Grants (Medicaid)		
Total Gross Costs (Savings)	See Below	See Below
Estimated Federal Share		
Estimated State Share		

STATE IMPACT OF REGULATION:

The purposes of the regulation are to: (1) update and recodify the department's outpatient hospital medical services policy in regulation form; (2) update and consolidate all of the department's outpatient hospital regulations into one regulation; and (3) modernize the outpatient hospital reimbursement system in accordance with section 17b-239 of the Connecticut General Statutes.

(A) The problems, issues or circumstances that the regulation proposes to address: Section 17b-239 of the Connecticut General Statutes requires the department to reimburse for outpatient hospital services using an outpatient prospective payment system (OPPS) that uses an ambulatory payment classification (APC) methodology to reimburse for most outpatient hospital services. This payment reform modernizes the department's outpatient hospital reimbursement methodology and is similar to the outpatient hospital reimbursement methodology used by Medicare, with various modifications. Under OPPS, services paid using the APC reimbursement methodology will be paid to hospitals solely for the facility and technical components of hospital services, which means that physicians and certain other licensed practitioners must be reimbursed separately from the hospital for providing professional services associated with hospital services reimbursed under the APC reimbursement methodology. The regulation implements the OPPS both by establishing rules for hospital reimbursement and rate-setting as well as enabling the department to reimburse physicians and certain other licensed practitioners for their professional services separately from the hospital.

In order to improve clarity, this regulation also updates and consolidates all outpatient hospital regulations and repeals regulations that are obsolete or are being consolidated into this regulation, as well as repealing an obsolete clinic regulation. The regulation amends the provider participation regulations to prohibit providers from charging members for cancelled visits or appointments not kept and for providing services incidental to covered services. This regulation amends the independent clinical laboratory regulation to conform to outpatient hospital laboratory provisions being added in this regulation. The regulation also amends the nurse practitioner regulation to add flexibility regarding the rate of reimbursement.

Finally, this regulation also makes several changes to be consistent with the changes being made to payment for laboratory services provided by hospitals. Specifically, the new outpatient hospital regulation aligns with the payment requirement in the independent laboratory regulation, which provides that payment is made at the lowest of several amounts, including any amount charged or accepted by any other person or entity, such as a commercial health insurance plan, which is also known as the "most favored nation" requirement. In order to make this payment rule consistent for laboratory services provided by any provider type, not solely hospitals and independent laboratories, this regulation aligns the payment rules for laboratory services in various other applicable regulations, including the physician, nurse practitioner, nurse-midwife, medical clinic, family planning clinic, psychiatrist, podiatrist and behavioral health clinic regulations. This regulation also clarifies the language in the physician regulation regarding the contexts in which a physician group may be paid for providing laboratory services. Relatedly, this regulation removes the most favored nation payment rule from a variety of other provider regulations, including the naturopath, chiropractor, independent radiology, psychologist, and independent therapist regulations.

(B) The main provisions of the regulation: (1) Establish a new consolidated outpatient hospital regulation that updates provisions from the department's outpatient hospital medical services policy and other regulations regarding coverage, billing, provider enrollment, documentation and related requirements; (2) implement outpatient hospital payment modernization by setting forth specific rules for reimbursement and rate-setting both for services reimbursed under APCs and non-APC reimbursement methodologies; (3) update and consolidate various other outpatient hospital regulations regarding hospital reimbursement and rate-setting, utilization review and border and out-of-state hospitals; (4) amend various other regulations as necessary to enable the department to reimburse physicians and certain other licensed practitioners separately from the hospital, as required by the services within OPPS that will be reimbursed using the APC reimbursement methodology; (5) update citations in other regulations to regulations that have been renumbered or repealed; (6) make various technical and other updates and revisions; (7) repeal regulations that are obsolete or have been consolidated into the new outpatient hospital regulation, as well as repealing an obsolete clinic regulation; (8) amending the provider participation regulations to prohibit providers from charging members for cancelled visits or appointments not kept and for providing services incidental to covered services; (9) amending the independent clinical laboratory regulation to conform to outpatient hospital laboratory provisions being added in this regulation; (10) amending the nurse practitioner regulation to add flexibility regarding the rate of

reimbursement; (11) amending the physician regulation to clarify the contexts in which physician laboratory services are reimbursed; and (12) updating the payment language for various regulations as referenced in paragraph (A) above.

(C) The legal effects of the regulation, including all of the ways that the regulation would change existing regulations or other laws: The regulation recodifies and updates the existing outpatient hospital medical services policy in regulation form. The regulation updates and consolidates all outpatient hospital regulations into one regulation. This regulation also amends existing regulations as necessary to enable the department to implement the hospital payment reform project as well as updating cross-references to regulations that are being repealed or renumbered in this regulation. This regulation repeals older outpatient hospital regulations that are obsolete, redundant or have been consolidated into this new regulation, as well as repealing an obsolete clinic regulation. This regulation amends the provider participation regulations to prohibit providers from charging members for cancelled visits or appointments not kept and for providing services incidental to covered services. This regulation amends the independent clinical laboratory regulation to conform to outpatient hospital laboratory provisions being added in this regulation. The regulation also amends the nurse practitioner regulation to add flexibility regarding the rate of reimbursement. The regulation amends the physician regulation to clarify the contexts in which physician laboratory services are reimbursed. Finally, this regulation also updates the payment language in a variety of provider regulations as described in paragraph (A) above.

FINANCIAL IMPACT:

The State of CT currently reimburses for hospital outpatient services based on Revenue Center Codes (RCC). Some services are reimbursed using a hospital-specific, code-specific cost to charge ratio that is multiplied by charges to calculate reimbursement. Other services are reimbursed a fixed fee that is the same amount for every hospital. To support the modernization of hospital payments in the State of Connecticut (CT), effective July 1, 2016, the Connecticut Department of Social Services (DSS) intends to implement an ambulatory payment classification (APC) reimbursement methodology. The APC methodology is a prospective payment system based on the complexity of services performed that is similar to the Centers for Medicare & Medicaid Services Outpatient Prospective Payment System. As a result of the transition to the APC methodology, the Department will also be removing most professional fees or physician cost from bundled hospital RCC reimbursement as it is currently configured. This change will allow for physicians and other licensed medical providers to directly bill the Department for services performed for Medicaid clients using the Department's physician fee schedule. It is anticipated that these changes will have no aggregate cost impact to the state.

However, as with any change in reimbursement, it is possible that these payment changes could result in changes to billing patterns for which the cost impact is not currently quantifiable.

Additionally, the changes to the regulations intend to add language that will require the hospital and all affiliates of the hospital to bill for laboratory services at the lowest price charged or accepted for the same or similar services elsewhere. This language currently applies to independent laboratories. To provide consistency, this regulation also aligns the payment rules for laboratory services in various other applicable regulations, including the physician, nurse practitioner, nurse-midwife, medical clinic, family planning clinic, psychiatrist, podiatrist and behavioral health clinic regulations. This means that in addition to hospital and independent laboratories, these other provider groups will now be required to bill for laboratory services at the lowest price charged or accepted for the same or similar services elsewhere. This change is not quantifiable at this time, as it is not known whether the Department's current laboratory fee schedule reimbursements are lower than the lowest laboratory charge accepted by the above referenced list of provider types. However, it is unlikely to result in a significant impact, as the Department's current lab fee schedule currently reimburses at rates that are most likely to be on par with the lowest accepted charges.

EXPLANATION OF MUNICIPAL IMPACT OF REGULATION:

None.

SMALL BUSINESS IMPACT :

While the Department does not anticipate that the proposed regulations will have a significant impact on small businesses, small businesses will have the opportunity to bring any unanticipated concerns to the Department's attention through notice and public comment.