EMERGENCY AMENDMENT

13 CSR 70-15.160 Outpatient Hospital Services Reimbursement Methodology. The division is amending section (5).

PURPOSE: This emergency amendment updates all documents incorporated by reference and used to create the outpatient simplified fee schedule.

EMERGENCY STATEMENT: The Department of Social Services, MO HealthNet Division (MHD) finds that this emergency amendment is necessary to preserve a compelling governmental interest as it allows MHD to continue to pay its hospital providers under a financially sustainable payment methodology. The Outpatient Simplified Fee Schedule (OSFS) payment methodology requires the most recent fee schedules published by Centers for Medicare & Medicaid Services (CMS) to be incorporated by reference to compute the OSFS fee schedule, which allows providers to be paid. Since the dates on which CMS updates its fee schedules vary throughout the year, an emergency amendment is necessary in order to maintain a correct fee schedule by July 1 of each year. This emergency amendment is necessary to incorporate the most recently published fee schedules into the methodology to comply with the regulation. Furthermore, this emergency amendment is necessary to secure a sustainable Medicaid program in Missouri, and ensure that payments for outpatient services are in line with funds appropriated for that purpose. (See Beverly Enterprises-Missouri Inc. v. Dep’t of Soc. Servs., Div. of Med. Servs., 349 S.W.3d 337, 350 (Mo. Ct. App. 2008)) As a result, MHD finds a compelling governmental interest, which requires this emergency action. This emergency amendment limits its scope to the circumstances creating the emergency and complies with the protections extended by the Missouri and United States Constitutions. The MHD believes this emergency amendment to be fair to all interested parties under the circumstances. The emergency amendment was filed June 13, 2022, effective July 1, 2022, and expires February 23, 2023.

(5) Outpatient Simplified Fee Schedule (OSFS) Payment Methodology.

(A) Definitions. The following definitions will be used in administering section (5) of this rule:

1. Ambulatory Payment Classification (APC). Medicare’s ambulatory payment classification assignment groups of Current Procedural Terminology (CPT) or Healthcare Common Procedure Coding System (HCPCS) codes. APCs classify and group clinically similar outpatient hospital services that can be expected to consume similar amounts of hospital resources. All services within an APC group have the same relative weight used to calculate the payment rates;

2. APC conversion factor. The unadjusted national conversion factor calculated by Medicare effective January 1 of each year, as published by the Medicare Outpatient Prospective Payment System (OPPS) Final Rule, and used to convert the APC relative weights into a dollar payment. The Medicare OPPS Final Rule is incorporated by reference and made a part of this rule as published by the Department of Social Services, MO HealthNet Division, 615 Howerton Court, Jefferson City, MO 65109, at its website/Centers for Medicare & Medicaid Services, 7500 Security Boulevard, Baltimore, MD 21244, and available at https://www.govinfo.gov/content/pkg/FR-2021-11-16/pdf/2021-24011.pdf, [December 9, 2020] November 19, 2021. This rule does not incorporate any subsequent amendments or additions;

3. APC relative weight. The national relative weights calculated by Medicare for the Outpatient Prospective Payment System;

4. Current Procedural Terminology (CPT). A medical code set that is used to report medical, surgical, and diagnostic procedures and services to entities such as physicians, health insurance companies, and accreditation organizations;

5. Dental procedure codes. The procedure codes found in the American Dental Association’s Dental Classification System (DCCS)

6. Federally-Deemed Critical Access Hospital. Hospitals that meet the federal definition found in section 1820(c)(2)(B) of the Social Security Act;

7. HCPCS. The national uniform coding method maintained by the Centers for Medicare and Medicaid Services (CMS) that incorporates the American Medical Association (AMA) Physicians’ Current Procedural Terminology (CPT) and the three (3) HCPCS unique coding levels, I, II, and III;

8. Medicare Inpatient Prospective Payment System (IPPS) wage index. The wage area index values are calculated annually by Medicare, published as part of the Medicare IPPS Final Rule;

9. Missouri conversion factor. The single, statewide conversion factor used by the MO HealthNet Division (MHD) to determine the APC-based fees, uses a formula based on Medicare OPPS. The formula consists of: sixty percent (60%) of the APC conversion factor, as defined in paragraph (5)(A)2. multiplied by the St. Louis, MO Medicare IPPS wage index value, plus the remaining forty percent (40%) of the APC conversion factor, with no wage index adjustment;


11. Outpatient Prospective Payment System (OPPS). Medicare’s hospital outpatient prospective payment system mandated by the Balanced Budget Refinement Act of 1999 (BBRA) and the Medicare, Medicaid, and State Children’s Health Insurance Program (SCHIP) Benefits Improvement and Protection Act (BIPA) of 2000; and

12. Payment level adjustment. The percentage applied to the Medicare fee to derive the OSFS fee.

(B) Effective for dates of service beginning July 20, 2021, outpatient hospital services shall be reimbursed on a predetermined fee-for-service basis using an OSFS based on the APC groups and fees under the Medicare Hospital OPPS. When service coverage and payment policy differences exist between Medicare OPPS and Medicaid, MHD policies and fee schedules are used. The fee schedule will be updated as follows:

1. MHD will review and adjust the OSFS annually on July 1 based on the payment method described in subsection (5)(D); and
2. The OSFS is incorporated by reference and made a part of this rule as published by the Department of Social Services, MO HealthNet Division, 615 Howerton Court, Jefferson City, MO 65109, at its website at https://dssPointerExceptionTracker.mo.gov/dss-proposed-rules/welcome.action, July 20, 2021. /https://dss.mo.gov/mhd/providers/fee-for-service-providers.htm, June 15, 2022. This rule does not incorporate any subsequent amendments or additions.

(C) Payment will be the lower of the provider’s charge or the
payment as calculated in subsection (5)(D).

(D) Fee schedule methodology. Fees for outpatient hospital services covered by the MO HealthNet program are determined by the HCPCS procedure code at the line level and the following hierarchy:

1. The APC relative weight or payment rate assigned to the procedure in the Medicare OPPS Addendum B is used to calculate the fee for the service, with the exception of the hospital observation per hour fee which is calculated based on the method described in subparagraph (5)(D).1.B. Fees derived from APC weights and payment rates are established using the Medicare OPPS Addendum B effective as of January 1 of each year as published by the CMS for Medicare OPPS. The Medicare OPPS Addendum B is incorporated by reference and made a part of this rule as published by the [Department of Social Services, MO HealthNet Division, 615 Howerton Court, Jefferson City, MO 65109, at its website at Centers for Medicare & Medicaid Services, 7500 Security Boulevard, Baltimore, MD 21244, and available at [https://dssruletracker.mo.gov/dss-proposed-rules/welcome.action, December 29, 2020] and https://www.cms.gov/medicare-fee-service-payment/hospitaloutpatientppsaddendum-and-addendum-b-updates/january-2022-0, January 18, 2022. This rule does not incorporate any subsequent amendments or additions.

A. The fee is calculated using the APC relative weight times the Missouri conversion factor. The resulting amount is then multiplied by the payment level adjustment of ninety percent (90%) to derive the OSFS fee.

B. The hourly fee for observation is calculated based on the relative weight for the Medicare APC (using the Medicare OPPS Addendum A effective as of January 1 of each year as published by the CMS for Medicare OPPS) which corresponds with comprehensive observation services multiplied by the Missouri conversion factor divided by forty (40), the maximum payable hours by Medicare. The resulting amount is then multiplied by the payment level adjustment of ninety percent (90%) to derive the OSFS fee. The Medicare OPPS Addendum A is incorporated by reference and made a part of this rule as published by the Centers for Medicare [and] Medicaid Services, 7500 Security Boulevard, Baltimore, MD 21244, and available at [https://dssruletracker.mo.gov/dss-proposed-rules/welcome.action, July 6, 2021] and https://www.cms.gov/medicare-fee-service-payment/hospitaloutpatientppsaddendum-and-addendum-b-updates/january-2022, January 18, 2022. This rule does not incorporate any subsequent amendments or additions.

C. For those APCs with no assigned relative weight, ninety percent (90%) of the Medicare APC payment rate is used as the fee;

2. If there is no APC relative weight or APC payment rate established for a particular service in the Medicare OPPS Addendum B, then the MHD approved fee will be ninety percent (90%) of the rate listed on one or more Medicare fee schedules, effective as of January 1 of each year: Clinical Laboratory Fee Schedule; Physician Fee Schedule; and Durable Medical Equipment Prosthetics/Orthotics and Supplies Fee Schedule, applicable to the outpatient hospital service.


C. The Medicare Durable Medical Equipment Prosthetics/Orthotics and Supplies Fee Schedule is incorporated by reference and made a part of this rule as published by the Centers for Medicare [and] Medicaid Services, 7500 Security Boulevard, Baltimore, MD 21244, and available at [https://www.cms.gov/medicare-fee-service-paymentdmeaposfeescheddmeapos-fee-schedule/dme21, December 2, 2020] and https://www.cms.gov/Medicare/Medicare-Fee-for-Service-Payment/DMEPOSFeeSched/DMEPOS-Fee-Schedule, December 15, 2021. This rule does not incorporate any subsequent amendments or additions;

D. This rule does not incorporate any subsequent amendments or additions.

3. Fees for dental procedure codes in the outpatient hospital setting are calculated based on thirty-eight and one half percent (38.5%) of the fifteenth percentile fee for Missouri reflected in the [2021] 2022 National Dental Advisory Service (NDAS). The [2021] 2022 NDAS is incorporated by reference and made a part of this rule as published by the Centers for Medicare and Medicaid Services, Baltimore, MD 21244, and available at https://wasserman-medical.com/product-category/dental/ndas/ and available at the MO HealthNet Division, 615 Howerton Court, Jefferson City MO 65109, [April 20, 2021] and January 31, 2022. This rule does not incorporate any subsequent amendments or additions;

4. If there is no APC relative weight, APC payment rate, other Medicare fee schedule rate, or NDAS rate established for a covered outpatient hospital service, then a MO HealthNet fee will be determined using the MHD Dental, Medical, Other Medical or Independent Lab—Technical Component fee schedules.

A. The MHD Dental Fee Schedule is incorporated by reference and made a part of this rule as published by the Department of Social Services, MO HealthNet Division, 615 Howerton Court, Jefferson City MO 65109, [at its website at https://dss.mo.gov/mhd/providers/pages/cptagree.htm, April 12, 2021] and available at : https://dss.mo.gov/mhd/providers/pages/cptagree.htm, June 7, 2022. This rule does not incorporate any subsequent amendments or additions.

B. The MHD Medical Fee Schedule is incorporated by reference and made a part of this rule as published by the Department of Social Services, MO HealthNet Division, 615 Howerton Court, Jefferson City MO 65109, [at its website at https://dssruletracker.mo.gov/dss-proposed-rules/welcome.action, July 13, 2021] and available at : https://dss.mo.gov/mhd/providers/pages/cptagree.htm, June 7, 2022. This rule does not incorporate any subsequent amendments or additions.

C. The MHD Other Medical Fee Schedule is incorporated by reference and made a part of this rule as published by the Department of Social Services, MO HealthNet Division, 615 Howerton Court, Jefferson City MO 65109, [at its website at https://dss.mo.gov/mhd/providers/pages/cptagree.htm, April 12, 2021] and available at : https://dss.mo.gov/mhd/providers/pages/cptagree.htm, June 7, 2022. This rule does not incorporate any subsequent amendments or additions;

D. The MHD Independent Lab—Technical Component Fee Schedule is incorporated by reference and made a part of this rule as published by the Department of Social Services, MO HealthNet Division, 615 Howerton Court, Jefferson City MO 65109, [at its website at https://dss.mo.gov/mhd/providers/pages/cptagree.htm, April 12, 2021] and available at : https://dss.mo.gov/mhd/providers/pages/cptagree.htm, June 7,
2022. This rule does not incorporate any subsequent amendments or additions;

5. In-state federally-deemed critical access hospitals will receive an additional forty percent (40%) of the rate as determined in paragraph (5)(B)2. for each billed procedure code; and

6. Nominal charge providers will receive an additional twenty-five percent (25%) of the rate as determined in paragraph (5)(B)2. for each billed procedure code.

(E) Packaged services. MHD adopts Medicare guidelines for procedure codes identified as “Items and Services Packaged into APC Rates” under Medicare OPPS Addendum D1. These procedures are designated as always packaged. Claim lines with packaged procedure codes will be considered paid but with a payment of zero (0). The Medicare OPPS Addendum D1 is incorporated by reference and made a part of this rule as published by the Centers for Medicare & Medicaid Services, 7500 Security Boulevard, Baltimore, MD 21244, and available at [https://www.cms.gov/medicare/medicare-fee-for-service-payment/hospitaloutpatientpps/downloads/cms1392fc_addendum_d1.pdf, December 29, 2020] https://www.cms.gov/license/ama?file=/files/zip/2022-nfrm-opps-addenda.zip, November 3, 2021. This rule does not incorporate any subsequent amendments or additions.

(F) Inpatient only services. MHD adopts Medicare guidelines for procedure codes identified as “Inpatient Procedures” under Medicare OPPS Addendum D1. These procedures are designated as inpatient only (referred to as the inpatient only (IPO) list). Claim lines with inpatient only procedures will not be paid under the OSFS.

(G) Drugs. Effective for dates of service beginning April 1, 2019, outpatient drugs are reimbursed in accordance with the methodology described in 13 CSR 70-20.070.

(H) Payment for outpatient hospital services under this rule will be final, with no cost settlement.


PUBLIC COST: This emergency amendment is estimated to cost the Department of Social Services $5,618,290.00 during the time the emergency amendment is effective. This emergency amendment will not cost state agencies or political subdivisions, other than the Department of Social Services, more than five hundred dollars ($500) in the aggregate during the time the emergency is effective.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars ($500) in the aggregate during the time the emergency amendment is effective.
I. **Department Title:** Title 13 - Department of Social Services  
**Division Title:** Division 70 - MO HealthNet Division  
**Chapter Title:** Chapter 15 – Hospital Program  

<table>
<thead>
<tr>
<th>Rule Number and Title:</th>
<th>13 CSR 70-15.160 Outpatient Hospital Services Reimbursement Methodology</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Type of Rulemaking:</strong></td>
<td>Emergency Amendment</td>
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</table>

II. **SUMMARY OF FISCAL IMPACT**

<table>
<thead>
<tr>
<th>Affected Agency or Political Subdivision</th>
<th>Estimated Cost of Compliance in the Aggregate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Other Government (Public) &amp; State Hospitals enrolled in MO HealthNet - 32</td>
<td>No Fiscal Impact</td>
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</tbody>
</table>
| Department of Social Services, MO HealthNet Division | SFY 2023 Impact (6 Months):  
Total Costs is estimated at $5.6 million;  
State Share is estimated at $1.9 million |

III. **WORKSHEET**

<table>
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<tr>
<th>Department of Social Services, MO HealthNet Division Savings:</th>
<th>Estimated Costs for 6 Months of SFY 2023:</th>
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</thead>
<tbody>
<tr>
<td>Estimated Costs</td>
<td>$5,618,289</td>
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<tr>
<td>Times FFY 2022 State Share Percentage</td>
<td>33.64%</td>
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<tr>
<td>Estimated State Share Savings</td>
<td>$1,889,992</td>
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The state estimates that there is not a cost to other government (public) and state hospitals. The state anticipates an increase in payments in aggregate of $1.7 million.

IV. **ASSUMPTIONS**

The estimated cost is due to Medicare increasing their rates for the following high volume services: emergency department visits, clinic visits, and some laboratory services.