

Reduction to Statewide Base Price

Effective date: 12/28/11

Pursuant to the authority vested in the Commissioner of Health by section 2807-c(35) of the Public Health Law, section 86-1.16 of Title 10 of the Official Compilation of Codes, Rules and Regulations of the State of New York, are amended to be effective July 1, 2011, to read as follows:

Section 86-1.16 of Subpart 86-1 of title 10 NYCRR is amended by adding a new subdivision (c), to read as follows:

(c) For the period effective July 1, 2011 through March 31, 2012, the statewide base price shall be adjusted such that total Medicaid payments are decreased by \$24,200,000.

REGULATORY IMPACT STATEMENT

Statutory Authority:

The requirement to implement a modernized Medicaid reimbursement system for hospital inpatient services based upon 2005 base year operating costs pursuant to regulations is set forth in section 2807-c(35) of the Public Health Law as added by section 2 of part C of Chapter 58 of the laws of 2009. Section 2807-c(35) of the Public Health Law states that the Commissioner has the authority to set emergency regulations for general hospital inpatient rates and such regulations shall *include but not be limited to* a case-mix neutral statewide base price. Such statewide base price will exclude certain items specified in the statute and any other factors as may be determined by the Commissioner.

Legislative Objectives:

The Legislature and Medicaid Redesign Team adopted a proposal to reduce unnecessary cesarean deliveries to promote quality care and reduce unnecessary expenditures. Due to industry concerns with the initial proposal it was determined that a more clinically sound method needs to be developed. To generate immediate savings, however, a reduction in the statewide base price is being implemented while an obstetrical workgroup develops a more clinically sound approach to meet Legislative objectives.

Needs and Benefits:

The proposed amendment appropriately implements the provisions of Public Health Law section 2807-c(35)(b)(xii), which authorizes the Commissioner to address the inappropriate use of cesarean deliveries. Cesarean deliveries are surgical procedures that inherently involve risks;

however, elective cesarean deliveries increase the risks unnecessarily. Therefore, high rates of cesarean deliveries are increasingly viewed as indicative of quality of care issues.

Due to industry concerns with the initial proposal it was determined that a more clinically sound method needs to be developed. To generate immediate savings, however, this amendment, in concert with enacted statute, implements a statewide base price reduction of \$24.2 million dollars (\$12.1 million State share) to achieve the immediate savings target for the 2011/2012 SFY for unnecessary cesarean deliveries while the state undergoes consultation with affected stakeholders to develop a clinically sound approach to reducing inappropriate cesarean deliveries.

COSTS:

Costs to State Government:

There are no additional costs to State government as a result of this amendment.

Costs of Local Government:

There will be no additional cost to local governments as a result of these amendments.

Costs to the Department of Health:

There will be no additional costs to the Department of Health as a result of this amendment.

Local Government Mandates:

The proposed amendments do not impose any new programs, services, duties or responsibilities upon any county, city, town, village, school district, fire district or other special district.

Paperwork:

There is no additional paperwork required of providers as a result of these amendments.

Duplication:

These regulations do not duplicate existing State and federal regulations.

Alternatives:

No significant alternatives are available at this time. In collaboration with the hospital industry, the State is in the process of developing a more clinically sound method to achieve this savings. Several methods were considered to implement this savings measure but it was determined that none of the options were clinically sound. There is no option to not act on this initiative since the Enacted Budget assumes savings that total \$24.2 million.

Federal Standards:

This amendment does not exceed any minimum standards of the federal government for the same or similar subject areas.

Compliance Schedule:

Section 86-1.16 requires that the statewide base price be reduced by \$24,200,000 for the period effective July 1, 2011 through March 31, 2012.

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REGULATORY FLEXIBILITY ANALYSIS
FOR
SMALL BUSINESS AND LOCAL GOVERNMENTS

Effect on Small Business and Local Governments:

For the purpose of this regulatory flexibility analysis, small businesses were considered to be general hospitals with 100 or fewer full time equivalents. Based on recent financial and statistical data extracted from the Institutional Cost Report, seven hospitals were identified as employing fewer than 100 employees.

Health care providers subject to the provisions of this regulation under section 2807-c(35)(b) of the Public Health Law will see a minimal decrease in funding as a result of the reduction in the statewide base price.

This rule will have no direct effect on Local Governments.

Compliance Requirements:

No new reporting, record keeping or other compliance requirements are being imposed as a result of these rules. Affected health care providers will bill Medicaid using procedure codes and ICD-9 codes approved by the American Medical Association, as is currently required.

The rule should have no direct effect on Local Governments.

Professional Services:

No new or additional professional services are required in order to comply with the proposed amendments.

Compliance Costs:

As a result of the new provision of 86-1.16, overall statewide aggregate hospital Medicaid revenues for hospital inpatient services will decrease in an amount corresponding to the total statewide base price reduction.

Economic and Technical Feasibility:

Small businesses will be able to comply with the economic and technological aspects of this rule. The proposed amendments are technologically feasible because it requires the use of existing technology. The overall economic impact to comply with the requirements of this regulation is expected to be minimal.

Minimizing Adverse Impact:

The proposed amendments reflect statutory intent and requirements.

Small Business and Local Government Participation:

Hospital associations participated in discussions and contributed comments through the State's Medicaid Redesign Team process regarding these changes.

RURAL AREA FLEXIBILITY ANALYSIS

Effect on Rural Areas:

Rural areas are defined as counties with a population less than 200,000 and, for counties with a population greater than 200,000, includes towns with population densities of 150 persons or less per square mile. The following 43 counties have a population less than 200,000:

Allegany	Hamilton	Schenectady
Cattaraugus	Herkimer	Schoharie
Cayuga	Jefferson	Schuyler
Chautauqua	Lewis	Seneca
Chemung	Livingston	Steuben
Chenango	Madison	Sullivan
Clinton	Montgomery	Tioga
Columbia	Ontario	Tompkins
Cortland	Orleans	Ulster
Delaware	Oswego	Warren
Essex	Otsego	Washington
Franklin	Putnam	Wayne
Fulton	Rensselaer	Wyoming
Genesee	St. Lawrence	Yates
Greene		

The following 9 counties have certain townships with population densities of 150 persons or less per square mile:

Albany	Erie	Oneida
Broome	Monroe	Onondaga
Dutchess	Niagara	Orange

Compliance Requirements:

No new reporting, record keeping, or other compliance requirements are being imposed as a result of this proposal.

Professional Services:

No new additional professional services are required in order for providers in rural areas to comply with the proposed amendments.

Compliance Costs:

No initial capital costs will be imposed as a result of this rule, nor is there an annual cost of compliance.

Minimizing Adverse Impact:

The proposed amendments reflect statutory intent and requirements.

Rural Area Participation:

This amendment is the result of ongoing discussions with industry associations as part of the Medicaid Redesign team process. These associations include members from rural areas. As well, the Medicaid Redesign Team held multiple regional hearings and solicited ideas through a public process.

JOB IMPACT STATEMENT

A Job Impact Statement is not required pursuant to Section 201-a(2)(a) of the State Administrative Procedure Act. It is apparent, from the nature and purpose of the proposed rules, that they will not have a substantial adverse impact on jobs or employment opportunities. The proposed regulations revise the final statewide base price for the period beginning July 1, 2011 through March 31, 2012. The proposed regulations have no implications for job opportunities.

EMERGENCY JUSTIFICATION

It is necessary to issue the proposed regulations on an emergency basis in order to implement Public Health Law section 2807-c(35)(b), as amended by Chapter 59 of the Laws of 2011, in a timely manner while the State works with the hospital industry to develop and incorporate quality-related measures pertaining to the inappropriate use of cesarean deliveries that will generate future savings. The revised statewide base price is intended to achieve the required savings for this proposal.

Public Health Law section 2807-c(35), as amended by Chapter 59 of the Laws of 2011, Part H, § 36, specifically provides the Commissioner of Health with authority to issue emergency regulations.

Further, there is compelling interest in enacting these regulations immediately in order to secure federal approval of associated Medicaid State Plan Amendment.