



TED STRICKLAND
GOVERNOR
STATE OF OHIO

Executive Order 2008 –18S

Immediate Amendment of Rules Regarding Payment Responsibility for Provision of Inpatient Hospital Services through Ohio's Medicaid Managed Care Program

- 1. Administration of Ohio's Medicaid Managed Care Program.** The Ohio Department of Job and Family Services (ODJFS) is responsible for establishing and implementing policies regarding services covered under the Ohio Medicaid Managed Care Program, which provides Ohioans who meet certain eligibility requirements with access to inpatient hospital care and other health care resources.
- 2. Ohio Law Regarding Payments for Inpatient Hospital Services.** In order for managed care plans to participate in Ohio's Medicaid Managed Care Program, they must enter into provider agreements with ODJFS. While current Ohio law outlines many of the responsibilities of managed care plans that do not renew their provider agreements with ODJFS, Ohio law is not clear that such managed care plans are still responsible for making payments to hospitals for inpatient facility charges incurred by Medicaid who are patients on the effective date of a non-renewal.
- 3. Amendment of Rules Regarding Inpatient Hospital Liability Coverage Must Occur Immediately.** To avoid the risk of non-payment of funds due to Medicaid service providers, amendment of rules under the Ohio Administrative Code, in order to clarify that obligation, must occur immediately.
- 4. Procedure for Immediate Enactment of Rule Changes.** Section 119.03(F) of the Ohio Revised Code authorizes the Governor, on the request of a state agency, to suspend the normal rule-making procedures with respect to a specific rule when an emergency exists necessitating the immediate

adoption, amendment, or rescission of the rule. When such a determination is made, the agency may immediately amend that rule, but the rule is valid for only ninety (90) days.

5. **Determination of an Emergency.** I believe that an emergency exists justifying the suspension of the normal rule-making process when failure to act immediately would negatively impact the citizens of Ohio. ODJFS has asked me to determine, and I have determined, that the failure to implement immediate rule changes regarding the responsibility of managed care plans to ensure payment for inpatient hospital services, when they do not renew a provider agreement with ODJFS, would negatively impact Ohioans who rely on these services and may not otherwise be able to receive health services that they need. Therefore, an emergency exists necessitating the immediate amendment of administrative rules in this regard.
6. **Authorization for Immediate Rule Implementation.** Accordingly, the normal rule-making procedures are suspended with respect to amendments to Rules 5101:3-26-02 and 5101:3-26-02.1 and 5101:3-26-10 of the Ohio Administrative Code, which will clarify responsibility for making payments for inpatient hospital services when a managed care plan does not renew a provider agreement with ODJFS. ODJFS may, therefore, amend these rules immediately by electronically filing them with the Secretary of State, the Director of the Legislative Service Commission, and the Joint Committee on Agency Rule Review.
7. I signed this Executive Order on August 26, 2008. It will expire at the end of the ninetieth day it is in effect, November 24, 2008.



Ted Strickland
Ted Strickland, Governor

ATTEST:

Jennifer Brunner, Secretary of State