



Michael R. Pence, Governor
State of Indiana

Office of General Counsel
402 W. WASHINGTON STREET, ROOM W451, MS27
INDIANAPOLIS, IN 46204-2744

REQUEST FOR RULEMAKING AND FAMILY IMPACT CERTIFICATION

PURPOSE FOR RULE

- In 2013, the Indiana General Assembly passed House Enrolled Act 1001 (Public Law 205-2013), which added I.C. §16-21-10.
- I.C. §16-21-10 authorizes implementation of an assessment fee on certain hospitals, and directs the FSSA – OMPP to revise the Medicaid inpatient and outpatient reimbursement methodology for certain hospitals.
- This proposed rule implements the assessment fee and reimbursement methodology changes, which will be used to cover the non-federal share of Disproportionate Share Hospital (“DSH”) payments as well as to increase Medicaid inpatient and outpatient payment rates.

REQUESTED RESPONSE TIME

Since these changes are effective July 1, 2013, and continue through June 30, 2017, FSSA must promulgate this proposed rule expeditiously. Given the urgent nature of this proposed rule, FSSA respectfully requests a response to this submission on or before **October 30, 2015**.

Thank you for your attention to this matter. Should you have any questions regarding this submission, please feel free to contact me at (317) 232-1244 or kim.crawford@fssa.in.gov.

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Michael R. Pence, Governor
State of Indiana

Indiana Family and Social Services Administration
402 W. WASHINGTON STREET, P.O. BOX 7083
INDIANAPOLIS, IN 46207-7083

TO: Micah Vincent, Director
Office of Management and Budget

FROM: John J. Wernert, M.D., Secretary
Family and Social Services Administration

RE: Request to Proceed with Rulemaking – Hospital Assessment Fee Amendments

DATE: October 6, 2015

The Indiana Family and Social Services Administration (“FSSA”) Office of Medicaid Policy and Planning (“OMPP”) intends to amend its current rules to allow the FSSA – OMPP to implement the provisions of Ind. Code (“I.C.”) §16-21-10, as added by House Enrolled Act 1001 (Public Law 205-2013).

Pursuant to Executive Order 13-3 and the Financial Management Circular 2013-01, FSSA – OMPP is requesting that the Office of Management and Budget (“OMB”) Director approve its request to proceed with rulemaking pursuant to the exceptions listed in subsections 6.a. and 6.g.

Background

In 2013, the Indiana General Assembly passed House Enrolled Act 1001 (Public Law 205-2013), which added I.C. §16-21-10. I.C. §16-21-10 authorizes implementation of an assessment fee on certain hospitals, and directs the FSSA – OMPP to revise the Medicaid inpatient and outpatient reimbursement methodology for certain hospitals. This proposed rule implements the assessment fee and reimbursement methodology changes authorized by I.C. §16-21-10. The hospital assessment fees will be used to cover the non-federal share of Disproportionate Share Hospital (“DSH”) payments as well as to increase Medicaid inpatient and outpatient payment rates to the aggregate level of reimbursement that would be paid under Medicare payment principles. These changes are effective July 1, 2013, and continuing through June 30, 2017.

I.C. §16-21-10 requires the FSSA – OMPP to file Medicaid state plan amendments (“SPA”) with the United States Department of Health and Human Services (“HHS”) necessary to implement and administer the hospital assessment fee. The OMPP filed SPAs with HHS for changes to inpatient and outpatient hospital reimbursement on June 28, 2013. HHS approved the inpatient hospital SPA on February 20, 2014 and approved the outpatient hospital SPA on March 21, 2014 with an effective date of July 1, 2013. On September 29, 2014, the FSSA – OMPP filed SPAs

with HHS to modify inpatient and outpatient reimbursement to comply with Federal Medicare upper payment limit requirements. HHS approved the inpatient hospital SPA on May 22, 2015 and approved the outpatient hospital SPA on May 19, 2015 with an effective date of August 1, 2014.

Job Creation and Increasing Investment in Indiana Exception

Section 6.a. of the Executive Order excepts any rule from the rulemaking moratorium if it “fulfill[s] an objective related to job creation and increasing investment in Indiana....” The proposed rule will implement an assessment fee on certain hospitals and will revise the Medicaid inpatient and outpatient reimbursement methodology for certain hospitals. The hospital assessment fees will be used to cover the non-federal share of DSH payments as well as to increase Medicaid inpatient and outpatient payment rates to the aggregate level of reimbursement that would be paid under Medicare payment principles.

Due to state budgetary constraints, inpatient and outpatient hospital reimbursement rates have not changed since 2004. The purpose of the Hospital Assessment Fee (“HAF”) program is to increase federal funding such that increases in inpatient and outpatient hospital reimbursement can be made. The increased reimbursement under this program is expected to have a significant positive impact on the finances of many hospitals. This additional funding will be instrumental in assisting Indiana hospitals in maintaining current levels of services and staff, and in some cases, may result in an increase in jobs in the state.

Health or Safety Exception

Section 6.g. of the Executive Order excepts any rule from the rulemaking moratorium “whose predominate purpose and effect are to address matters of emergency or health or safety....” The proposed rule will implement an assessment fee on certain hospitals and will revise the Medicaid inpatient and outpatient reimbursement methodology for certain hospitals. The hospital assessment fees will be used to cover the non-federal share of DSH payments as well as to increase Medicaid inpatient and outpatient payment rates to the aggregate level of reimbursement that would be paid under Medicare payment principles.

Due to state budgetary constraints, inpatient and outpatient hospital reimbursement rates have not changed since 2004. The purpose of the HAF program is to increase federal funding such that increases in inpatient and outpatient hospital reimbursement can be made. These reimbursement increases will be instrumental in ensuring that Indiana hospitals can continue to provide critical inpatient and outpatient hospital services to Medicaid members and receive increased reimbursement for those services. These services are vital to the health and well-being of Hoosiers enrolled in Medicaid by allowing them to have continued access to inpatient and outpatient hospital services throughout the state.

FSSA – OMPP requests that the OMB Director approve its request to proceed with the rulemaking necessary to implement these rule amendments. Should the OMB Director like to

further discuss this proposed rule before making any decision, FSSA – OMPP would be happy to make a subject matter expert available at the Director’s convenience.

Office of the Secretary of Family and
Social Services



John J. Wernert, M.D.
Secretary

CC: Allison Taylor, General Counsel, FSSA
Joe Moser, Director, OMPP
Leslie Huckleberry, Staff Attorney, FSSA
Jennifer Rankin, OMPP



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FSSA's Family Impact Statement for Hospital Assessment Fee Reimbursement Methodology Changes

Executive Order 13-05 ("Order") requires the Family and Social Services Administration ("FSSA") to assess a policy or proposed rule's impact on family formation and general well-being and to certify its compliance with the Order. The FSSA, with the Office of Medicaid Policy and Planning ("OMPP"), hereby submits this certification that it has assessed the proposed rule's impact on family formation and general well-being based on the enumerated considerations listed in the Order.

Background and Summary of the Rule

In 2013, the Indiana General Assembly passed House Enrolled Act 1001 (Public Law 205-2013), which added I.C. §16-21-10. I.C. §16-21-10 authorizes implementation of an assessment fee on certain hospitals, and directs the FSSA – OMPP to revise the Medicaid inpatient and outpatient reimbursement methodology for certain hospitals. This proposed rule implements the assessment fee and reimbursement methodology changes authorized by I.C. §16-21-10. The hospital assessment fees will be used to cover the non-federal share of Disproportionate Share Hospital ("DSH") payments as well as to increase Medicaid inpatient and outpatient payment rates to the aggregate level of reimbursement that would be paid under Medicare payment principles. These changes are effective July 1, 2013, and continuing through June 30, 2017.

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Impact of the proposed rule on the family well-being or family formation

FSSA – OMPP assessed the proposed rule's impact on family formation and well-being in light of the six considerations enumerated in the Order. In general, the hospital assessment fee

collected from, and Medicaid reimbursement increases paid to, certain providers do not discourage traditional family formation or encourage family dissolution. Accordingly, FSSA – OMPP expects that the proposed rule will have a **neutral** impact on family well-being or family formation. The FSSA – OMPP is submitting this certification to the OMB that it has considered the requisite criteria in Executive Order 13-05 in developing the proposed rule. FSSA – OMPP’s response to the enumerated measures is as follows:

1) Whether or not this action by government strengthens or erodes the stability of the family and the marital commitment.

Response: The proposed rule implements an assessment fee on certain hospitals and makes changes to the Medicaid inpatient and outpatient reimbursement methodology for certain hospitals. Therefore, the proposed rule neither strengthens nor erodes the stability of the marital commitment.

2) Whether or not this action encourages or discourages non-marital childbearing.

Response: The proposed rule implements an assessment fee on certain hospitals and makes changes to the Medicaid inpatient and outpatient reimbursement methodology for certain hospitals. Therefore, the proposed rule neither encourages nor discourages non-marital childbearing.

3) Whether or not this action respects or inhibits the rights of parents to raise their children and make the best choices about their children’s education, health, and well-being.

Response: The proposed rule implements an assessment fee on certain hospitals and makes changes to the Medicaid inpatient and outpatient reimbursement methodology for certain hospitals. Therefore, the proposed rule neither respects nor inhibits the rights of parents to raise their children and make parental choices.

4) Whether or not this action increases or decreases private family earnings or the incentive for parents to provide materially and emotionally for their children.

Response: The proposed rule implements an assessment fee on certain hospitals and makes changes to the Medicaid inpatient and outpatient reimbursement methodology for certain hospitals. Therefore, the proposed rule neither increases nor decreases family earnings or the incentive for parents to provide for their children.

5) What message, intended or otherwise, does this program send to the public concerning the status of the family?

Response: The proposed rule implements an assessment fee on certain hospitals and makes changes to the Medicaid inpatient and outpatient reimbursement methodology for

certain hospitals. Therefore, the proposed rule does not send any message, positive or negative, concerning the status of the family.

6) What message does the action send to children about the relationship between their present choices and their future well-being?

Response: The proposed rule implements an assessment fee on certain hospitals and makes changes to the Medicaid inpatient and outpatient reimbursement methodology for certain hospitals. Therefore, the proposed rule does not send any message, positive or negative to children concerning the relationship between their present choices and their future well-being.

Office of the Secretary of Family and
Social Services



John V. Wernert, M.D.
Secretary



Family Impact Assessment

Documentation of new Policies and Rules

Pursuant to Section 2(a)-(f) of Executive Order 13-05:

In formulating and implementing policies and rules that may have a significant impact on family formation and general well-being, the agencies listed in Section 1 of Executive Order 13-05 shall assess such measures in light of the following considerations:

- 1) **Whether or not this action by government strengthens or erodes the stability of the family and the marital commitment.**
- 2) **Whether or not this action encourages or discourages non-marital childbearing.**
- 3) **Whether or not this action respects or inhibits the rights of parents to raise their children and make the best choices about their children's education, health, and well-being.**
- 4) **Whether or not this action increases or decreases private family earnings or the incentive for parents to provide materially and emotionally for their children.**
- 5) **What message, intended or otherwise, does this program send to the public concerning the status of the family?**
- 6) **What message does the action send to children about the relationship between their present choices and their future well-being?**

These assessments should be answered on a separate document attached to this submission form and clearly marked as answers to considerations 1-6. If an agency does not think that a consideration applies to their proposal, the agency must include an explanation of why the consideration does not apply. Additionally, if the proposal contains a potentially negative impact on family well-being or family formation, the agency must include an explanation of why the proposal is necessary.

This submission form and the agency assessments should be submitted simultaneously with the proposed policy or rule to the Office of Management and Budget.

By signing below, the agency head certifies that they are aware of the Family Impact Assessment, and all information submitted is accurate to the best of their knowledge.



John J. Wernert, M.D., Secretary

10/6/15

Date

FSSA

Agency