



TED STRICKLAND
GOVERNOR
STATE OF OHIO

Executive Order 2009 – 20S

Immediate Amendment of Rules to Allow Reimbursement for the Administration of the Flu Vaccines

- 1. Reimbursement for the Administration of the Flu Vaccines.** Ohioans who are eligible for Medicaid services are eligible to receive flu vaccines as part of their Medicaid coverage. Current Administrative Rules for the reimbursement of the Medicaid providers of flu vaccines do not provide for reimbursement for the administration of the H1N1 flu vaccine. In addition, current Rules do not authorize reimbursements to pharmacies for their costs in administering flu vaccines.
- 2. Steps Should Be Taken to Limit the Spread of Flu.** The H1N1 flu has already been declared a global pandemic. All reasonable steps should be taken to prevent Ohioans from getting or spreading the flu. Accordingly, updating Ohio's Administrative Rules to allow for Medicaid reimbursements for H1N1 flu vaccines and to pharmacies administering flu vaccines will help to safeguard the health of all Ohioans.
- 3. 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 adopt, amend, or rescind that rule, but the rule is valid for only ninety (90) days.
- 4. Determination of an Emergency.** I believe that an emergency exists justifying the suspension of the normal rule-making process when the failure to act immediately would negatively impact the citizens of Ohio. The Ohio Department of Job and Family Services (ODJFS), which administers Ohio's Medicaid program, has asked me to determine, and I

have determined, that the failure to amend Ohio's Administrative Rules to include reimbursement for the administration of the H1N1 pandemic influenza virus vaccine and to authorize the reimbursement of pharmacies for covered immunizations would prevent the flu vaccines from being administered as soon as they become available and as such, would negatively impact the health of Ohioans. In particular, the failure of ODJFS to cover the administration of the flu vaccines in physicians' offices and pharmacies could result in Ohioans being denied protection against the viruses and could result in more Ohioans getting the flu as well as costly hospitalizations and even death. Therefore, an emergency exists necessitating the immediate amendment of the administrative rules in this regard.

5. **Authorization for Immediate Rule Implementation.** Accordingly, the normal rule-making procedures are suspended with respect to the amendment of rule 5101:3-4-12 of the Ohio Administrative Code and the adoption of rule 5101:3-9-13 of the Ohio Administrative Code. These rules will be electronically filed by ODJFS with the Ohio Secretary of State, the Director of the Legislative Service Commission, and the Joint Committee on Agency Rule Review. ODJFS may, therefore, amend and adopt these rules immediately.
6. I signed this Executive Order on September 30, 2009, in Columbus, Ohio. It will expire at the end of the ninetieth day it is in effect, December 29, 2009.



Ted Strickland

Ted Strickland, Governor

ATTEST:

Jennifer Brunner, Secretary of State