MIKE DEWINE
GOVERNOR
STATE OF OHIO

Executive Order 2020-38D

The Emergency Amendment of Rule 5160-2-60 of the Ohio Administrative Code
by the Ohio Department of Medicaid

WHEREAS, the Ohio Department of Medicaid administers the Medicaid program including ensuring adequate access for Ohio Medicaid recipients to inpatient and outpatient hospital services; and

WHEREAS, the Ohio Department of Medicaid governs a cost coverage add-on payment to ensure adequate access for Ohio Medicaid recipients to inpatient and outpatient hospital services; and

WHEREAS, the Ohio Department of Medicaid determined that the funding provided in the managed care capitation rates exceeds the value of the cost coverage add-on in the July 1, 2020 hospital rates; and

WHEREAS, in consideration of the hardships hospitals have faced during the COVID-19 public health emergency, there exists a need to mitigate the imbalance between the capitation rates and hospital rates within the calendar year 2020 rating period; and

WHEREAS, there exists a need to provide the Ohio Department of Medicaid with flexibility to address similar imbalances that may be discovered in an effort to maintain budget neutrality; and

WHEREAS, Section 5164.02 of the Ohio Revised Code authorizes the Director of Medicaid to promulgate rules to establish the Medicaid payment rate for each Medicaid service or the method by which the rate is to be determined for each Medicaid service; and

WHEREAS, Section 119.03(G) 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 specific rules when an emergency exists necessitating the immediate adoption, amendment or rescission of such rules. When such a determination is made, the agency may immediately adopt, amend or rescind such rules, but the rules are only valid for one hundred and twenty (120) days; and

WHEREAS, the Ohio Department of Medicaid has requested a determination whether an emergency exists that requires the amendment of rule 5160-2-60 on an emergency basis and that would therefore permit the Ohio Department of Medicaid, pursuant to Section 5164.02 of the Ohio Revised Code, to make immediate and necessary changes to the rule.

NOW THEREFORE, I, Mike DeWine, Governor of the State of Ohio, have determined, upon the request of the Ohio Department of Medicaid, that an emergency exists requiring the immediate amendment of rule 5160-2-60 of the Ohio Administrative Code.

I hereby order that the procedures prescribed by section 119.03 of the Ohio Revised Code with respect to the amendment of the specified rule be suspended and that the Ohio Department of Medicaid be permitted to amend the rule immediately by filing it electronically with the Secretary of State, the Director of the Legislative Service Commission, and the Joint Committee on Agency Rule Review ("JCARR").

Furthermore, I hereby order that this Executive Order be filed in electronic form with the Ohio Department of Medicaid, the Secretary of State, the Director of the Legislative Service Commission, and JCARR.

I signed this Executive Order on October 29, 2020, in Cedarville, Ohio, and it will expire one hundred and twenty (120) days from the effective date of the emergency rule, or upon the adoption of the rule through the normal JCARR process, whichever is sooner.

Mike DeWine, Governor

ATTEST:

Frank LaRose, Secretary of State