

Secretary of State  
**NOTICE OF PROPOSED RULEMAKING HEARING\***  
A Statement of Need and Fiscal Impact accompanies this form.

Oregon Health Authority (Authority), Division of Medical Assistance Programs (Division)	410
Agency and Division	Administrative Rules Chapter Number

Cheryl Peters	500 Summer St NE, Salem, OR 97301	503-945-6527
Rules Coordinator	Address	Telephone

**RULE CAPTION**

Align with other rules referenced; establish clarity, and change in coding for pharmacy clozaril monitoring

**Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.**

6/17/2013	10:30	500 Summer St NE, Salem, OR 97301, Room 137C	Cheryl Peters
Hearing Date	Time	Location	Hearings Officer

*Auxiliary aids for persons with disabilities are available upon advance request.*

**RULEMAKING ACTION**

Secure approval of new rule numbers (Adopted or Renumbered rules) with the Administrative Rules Unit prior to filing.  
**ADOPT:**

**AMEND:** OAR 410-130-0180 & 410-130-0240

**REPEAL:**

Stat. Auth. : ORS 413.042

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Other Auth.: None

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Stats. Implemented: ORS 414.025, 414.065 and 414.150

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**RULE SUMMARY**

The Medical Surgical Program administrative rules (Division 130) govern Division payments for services provided to certain clients. The Division needs to amend rules as follows:

410-130-0180: Rule amended to update clozaril monitoring and outline Division's response to changes in national code set requirements.

410-130-0240: Rule re-written to align with other OHP rules and provide more clarity on medical services.

The Agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing the negative economic impact of the rule on business.

6/19/2013 by 5:00 p.m.

**Last Day for Public Comment** (Last day to submit written comments to the Rules Coordinator)







Signature

Printed name

Date

\*Hearing Notices published in the Oregon Bulletin must be submitted by 5:00 pm on the 15th day of the preceding month unless this deadline falls on a weekend or legal holiday, upon which the deadline is 5:00 pm the preceding workday. ARC 920-2005

Secretary of State  
**STATEMENT OF NEED AND FISCAL IMPACT**

A Notice of Proposed Rulemaking Hearing or a Notice of Proposed Rulemaking accompanies this form.

Oregon Health Authority (Authority), Division of Medical Assistance Programs (Division)	410
Agency and Division	Administrative Rules Chapter Number

Align with other rules referenced; establish clarity, and change in coding for pharmacy clozaril monitoring  
Rule Caption (Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.)

In the Matter of: The proposed amendment of OAR 410-130-0180 and 410-130-0240

Statutory Authority: ORS 413.042

Other Authority: None

Stats. Implemented: ORS 414.065, 414.225 and 414.150

Need for the Rule(s): The Medical Surgical Program administrative rules (Division 130) govern Division payments for services provided to certain clients. The Division temporarily amended 410-130-0180 and 410-130-0240 due to changes in the National Code set and changes made in the Dental Services Program rules that impact medical service providers. Other changes were made to bring clarity to rule language and align with other program rules.

The Authority needs to implement changes to these rules to ensure the safe and appropriate use of medical services for the Oregon Health Plan's fee for service recipients.

410-130-0180: Rule amended to update clozaril monitoring and outline Division's response to changes in national code set requirements.

410-130-0240: Rule re-written to align with other OHP rules and provide more clarity on medical services.

Documents Relied Upon, and where they are available: Current Procedural Terminology National Code Set changes effective 1/1/13

Fiscal and Economic Impact: None

Statement of Cost of Compliance:

1. Impact on state agencies, units of local government and the public (ORS 183.335(2)(b)(E)): Coding changes require State to change policy to ensure access to services for Medicaid clients.

2. Cost of compliance effect on small business (ORS 183.336): Compliance will be improved with these rule clarifications.

a. Estimate the number of small businesses and types of business and industries with small businesses subject to the rule: There is no additional cost to small business due to these changes.

b. Projected reporting, recordkeeping and other administrative activities required for compliance, including costs of professional services: None

c. Equipment, supplies, labor and increased administration required for compliance: None

How were small businesses involved in the development of this rule? All pharmacies dispensing Clozaril to clients, and for all medical surgical service providers.

Administrative Rule Advisory Committee consulted?: No, as this was a National Code Set change that was noticed by local and national organizations as well as the agencies/entities responsible for the CPT code set. Edits made to 410-130-240 where for clarity, no substantive changes were made.

If not, why?:

Rhonda Busek

Signature

Rhonda Busek

Printed name

5-3-13

Date

Administrative Rules Unit, Archives Division, Secretary of State, 800 Summer Street NE, Salem, Oregon 97310. ARC 925-2007

## 410-130-0180 Drugs

(1) The Division of Medical Assistance Programs' (Division) Medical-Surgical Services Program reimburses practitioners for drugs only when administered by the practitioner in the office, clinic or home settings. The Division does not reimburse practitioners for drugs that are self-administered by the client, except for contraceptives such as birth control pills, spermicides and patches:

(a) Use an appropriate Current Procedural Terminology (CPT) therapeutic injection code for administration of injectables;

(b) Use an appropriate Healthcare Common Procedure Coding System (HCPCS) code for the specific drug. Do not bill for drugs under code 99070; The Division requires both the NDC number and HCPCS codes on all claim forms.

(c) When there is no specific HCPCS code for a drug or biological, use an appropriate unlisted code from the list below and bill at acquisition cost (purchase price plus postage):

(A) J3490;

(B) J3590;

(C) J7599;

(D) J7699;

(E) J7799;

(F) J8499;

(G) J8999;

(H) J9999;

(I) Include the name of the drug, National Drug Code (NDC) number and dosage.

(d) Do not bill for local anesthetics; reimbursement is included in the payment for the tray and/or procedure.

~~(2) The Division requires both the NDC number and HCPCS codes on all claim forms.~~

(3) For codes requiring prior authorization and codes that are Not Covered/Bundled, refer to OAR 410-130-0200 Table 130-0200-1 and OAR 410-130-0220 Table 130-0220-1.

(4) Not covered services and supplies include:

(a) Laetrile;

(b) Home pregnancy kits and products designed to promote fertility;

(c) Dimethyl sulfoxide (DMSO), except for instillation into the urinary bladder for symptomatic relief of interstitial cystitis;

(d) Infertility drugs;

(e) Sodium hyaluronate and Synvisc.

(5) Follow criteria outlined in the following:

(a) Billing Requirements -- OAR 410-121-0150;

(b) Brand Name Pharmaceuticals -- OAR 410-121-0155;

(c) Prior Authorization Procedures -- OAR 410-121-0060;

(d) Drugs and Products Requiring Prior Authorization -- OAR 410-121-0040;

(e) Drug Use Review -- OAR 410-121-0100;

(f) Participation in Medicaid's Drug Rebate Program -- OAR 410-121-0157.

(A) The Division cannot reimburse providers for a drug unless the drug manufacturer has signed an agreement with the Centers for Medicare and Medicaid Services (CMS) to participate in the Medicaid Drug Rebate Program.

(B) To verify that a drug manufacturer participates in the Medicaid Drug Rebate Program, visit the CMS website below to verify that the first five digits of the NDC number (labeler code) are listed as a participating drug company:

[http://www.cms.hhs.gov/MedicaidDrugRebateProgram/10\\_DrugComContactInfo.asp](http://www.cms.hhs.gov/MedicaidDrugRebateProgram/10_DrugComContactInfo.asp)

(6) Clozaril/Clozapine therapy:

(a) Clozapine is covered only for the treatment of clients who have failed therapy with at least two anti-psychotic medications;

(b) Clozapine supervision is the management and record keeping of clozapine dispensing as required by the manufacturer of clozapine. This is part of an evaluation and management service conducted by the appropriately licensed prescribing medical practitioner;

(c) Dispensing pharmacies are instructed to follow clozaril monitoring as required by law and follow OAR 410-121-0190.;

~~(A) Providers billing for clozapine supervision must document all of the following:~~

~~(i) Exact date and results of white blood counts (WBC), upon initiation of therapy and at recommended intervals per the drug labeling;~~

~~(ii) Notations of current dosage and change in dosage;~~

~~(iii) Evidence of an evaluation at intervals recommended per the drug labeling requirements approved by the FDA;~~

~~(iv) Dates provider sent required information to manufacturer.~~

~~(B) Only one provider (either a physician or pharmacist) may bill per client per week;~~

~~(C) Limited to five units per client per 30 days;~~

~~(D) Use code 90862 with modifier TC to bill for clozapine supervision.~~

Stat. Auth.: 413.042

Stats. Implemented: ORS 414.025, 414.065 and 414.150

1-1-13 (T)

**410-130-0240 Medical Services**

(1) Coverage of medical and surgical services are subject to the Health Evidence Review Commission's List of Prioritized Services. Medical and surgical services requiring prior authorization (PA) are listed in OAR 410-130-0200, PA Table 130-0200-1, and medical and surgical services that are Not Covered/Bundled services are listed in OAR 410-130-0220, Table 130-0220-1.

(2) Coverage for acupuncture:

(a) Oregon Health Plan Standard benefit package covers acupuncture services only for chemical dependency;

(b) Oregon Health Plan Plus benefit package covers acupuncture services according to the HERC List of Prioritized Services.

(3) Coverage for chiropractic services provided by an enrolled chiropractor are subject to the HERC List of Prioritized Services, and benefit plan for:

(a) Diagnostic visits, including evaluation and management services;

(b) Chiropractic manipulative treatment;

(c) Laboratory and radiology services.

(4) Maternity care and delivery:

(a) The Division may consider payment for delivery within a clinic, birthing center or home setting;

(b) Within the home setting the Division may consider payment for appropriate supplies in addition to delivery payment. The additional payment for supplies includes all supplies, equipment, staff assistance, new born screening cards, and local/topical anesthetics;

## RULE RE-WRITTEN

(c) Division may consider payment for physician administered medications associated with delivery except for local/topical anesthetics;

(d) When labor management conducted by a LDEM does not result in a delivery and client is appropriately transferred the provider shall code for labor management only. Bill 59899 and attach a report;

(e) For multiple births, use the appropriate CPT code for the first vaginal or cesarean delivery that includes antepartum and postpartum care, and the subsequent births under the respective delivery only code. (For example, for total obstetrical care with cesarean delivery of twins, bill 59510 for the first delivery and 59514 for the second delivery.)

(5) Neonatal Intensive Care Unit (NICU) procedures:

(a) Are reimbursed only to neonatologists and pediatric intensivists for services provided to infants when admitted to a Neonatal or Pediatric Intensive Care Unit (NICU/PICU). All other pediatricians must use other CPT codes when billing for services provided to neonates and infants;

(b) Neonatal intensive care codes are not payable for infants on Extracorporeal Membrane Oxygenation (ECMO). Use appropriate CPT ECMO codes.

(6) Neurology/Neuromuscular—Payment for polysomnograms and multiple sleep latency tests (MSLT) are each limited to two in a 12 month period.

(7) Oral Health Services provided by medical practitioners may include an oral assessment and application of topical fluoride varnish during a medical visit to children under the age of 7 years. Refer to Dental Services rule 410-123-1260.

Statutory Authority: ORS Chapter 413.042

Statutes Implemented: 414.025 and 414.065