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ARCHIVES DIVISION  
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**NOTICE OF PROPOSED RULEMAKING**  
INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 410  
OREGON HEALTH AUTHORITY  
HEALTH SYSTEMS DIVISION: MEDICAL ASSISTANCE PROGRAMS

**FILED**  
11/21/2017 4:05 PM  
ARCHIVES DIVISION  
SECRETARY OF STATE

FILING CAPTION: Add Detailed Criteria for When OHP Medical Surgical Program Will Deny Payment; Remove Code Table

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 01/22/2018 5:00 PM

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

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500 Summer St. NE  
Salem, OR 97301

Filed By:  
Sandy Cafourek  
Rules Coordinator

HEARING(S)

*Auxiliary aids for persons with disabilities are available upon advance request. Notify the contact listed above.*

DATE: 01/19/2018

TIME: 10:30 AM - 11:30 AM

OFFICER: Sandy Cafourek

ADDRESS: Human Services Building

500 Summer St. NE, Room 137A

Salem, OR 97301

SPECIAL INSTRUCTIONS:

Send comments to:

hsd.rules@dhsosha.state.or.us

NEED FOR THE RULE(S):

This rule has been a list of codes for which the Oregon Health Plan (OHP) will make no payment under the FFS medical-surgical program. The code list is problematic since it is seen as absolute. This rule rewrite is needed to remove the code list and replace it with detailed criteria. It will better reflect the circumstances when OHP does make exceptions to allow payment.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

The prioritized list available from the Health Evidence Review Commission. Medicare's National Physician's Fee Schedule and Ambulatory Surgical Fee Schedule available from CMS.

FISCAL AND ECONOMIC IMPACT:

None anticipated from this change.

COST OF COMPLIANCE:

(1) Identify any state agencies, units of local government, and members of the public likely to be economically affected by the rule(s). (2) Effect on Small Businesses: (a) Estimate the number and type of small businesses subject to the rule(s); (b) Describe the expected reporting, recordkeeping and administrative activities and cost required to comply with the rule(s); (c) Estimate the cost of professional services, equipment supplies, labor and increased administration required to comply with the rule(s).

Clinics and medical providers in OHP's network that are small businesses will be subject to this rule. It is difficult to estimate the number of small businesses in our network, but it is likely several thousand.

a. Estimate the number of small businesses and types of business and industries with small businesses subject to the rule: Clinics and medical providers in OHP's network that are small businesses will be subject to this rule. It is difficult to estimate the number of small businesses in our network, but it is likely several thousand.

b. Projected reporting, recordkeeping and other administrative activities required for compliance, including costs of professional services: This rule change is not anticipated to create new reporting, recordkeeping, or other administrative obligations for small businesses. Nor does it reduce or eliminate existing obligations.

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

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DESCRIBE HOW SMALL BUSINESSES WERE INVOLVED IN THE DEVELOPMENT OF THESE RULE(S):

Small business providers were solicited for participation in the Rules Advisory Committee. They will also be included in communications announcing the public input period for this rule.

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WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? YES

AMEND: 410-130-0220

RULE SUMMARY: This rule defines billing codes for which the Oregon Health Plan's (OHP) FFS medical surgical program will make no payment. No payment may be because the code is for a service that is not covered or it may be for a covered service that is bundled or otherwise does not pay separately on that code. In the past, the rule has consisted of a code list. This rewrite removes the list and adds detailed criteria for when OHP will make no payment.

CHANGES TO RULE:

410-130-0220

Not Covered/Bundled Services/Not Valid ¶¶

~~(1) Refer to the Oregon Health Plan administrative rules (chapter 410, division 141) and General Rules (chapter 410, division 120) for coverage of services. Refer to Table 130-0220-1 in this rule for additional information regarding not covered services, for~~ Under the Division's Fee-For-Service Medical-Surgical program, no payment shall be made for (a) and (b) of this section except in accordance with applicable exceptions as defined in administrative rule:¶¶

(a) Billing codes for services that are not covered. For the purposes of this rule, the billing codes that are not covered shall be:¶¶

(A) Services below the funding line or otherwise specified as not covered on the Health Evidenced Review Commission (HERC) Prioritized List of Health Services as referenced in OAR 410-141-0520:¶¶

(B) Services specified in OAR 410-120-1200:¶¶

(C) For Ambulatory Surgical Centers, services listed on Medicare's ASC Covered Surgical Procedures file

~~addendum EE, Surgical Procedures to be Excluded from Payment in ASCs as referenced in OAR 410-120-1340.~~

~~(b) Billing codes for certain covered services that the Division considers to be bundled in other services, and for codes the Division considers not valid for claims processing.~~

~~(2) For additional information, see General Rules OAR 410-120-1200, Medical Assistance Benefits: Excluded Services and Limitations designates not to be eligible for separate reimbursement. For the purposes of this rule, the billing codes that are not eligible for separate reimbursement shall be:~~

~~(A) Services listed in Medicare's Physician Fee Schedule RVU file as referenced in OAR 410-120-1340 that have a code status of B (Bundled Code) or P (Bundled/Excluded Codes). Certain services billed with billing codes 98960-98962 are excepted from this subsection and may be reimbursed separately when the rendered provider for these services is a certified community health worker (CHW);~~

~~(B) For Ambulatory Surgical Centers, services listed on Medicare's ASC Covered Surgical Procedures file as referenced in OAR 410-120-1340 that have payment indicator N1 (Packaged service) or L1 (Packaged item/service);~~

~~(C) Services listed in the Medicare's Physician Fee Schedule RVU file that have a code status of I (Not valid for Medicare purposes) as referenced in OAR 410-120-1340. Payment for these services, when covered, is under another coding option;~~

~~(D) Services listed in the Medicare's Physician Fee Schedule RVU file that have a code status of M (Measurement codes) or Q (Therapy functional information code) as referenced in OAR 410-120-1340.~~

~~(32) Table 130-0220-1.~~

~~{ED-NOTE: T} In the event that a covered Fee-For-Service Medical-Surgical program service does not have a payment methodology specified in OAR 410-120-1340 or in other program specific rules, the Division may set a reasonable referenced are available from the agency for the service's billing codes or designate that the service's billing codes do not pay separately. No reimbursement shall be made for services designated to not pay separately.}~~

Statutory/Other Authority: ORS 413.042

Statutes/Other Implemented: ORS 414.025, 414.065