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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**  
03/30/2022 9:55 AM  
ARCHIVES DIVISION  
SECRETARY OF STATE

FILING CAPTION: Provider Requirements And Payment Processing For Ground Emergency Medical Transportation (GEMT) Supplemental Payments

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 04/21/2022 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.*

*A public rulemaking hearing may be requested in writing by 10 or more people, or by a group with 10 or more members, within 21 days following the publication of the Notice of Proposed Rulemaking in the Oregon Bulletin or 28 days from the date the Notice was sent to people on the agency mailing list, whichever is later. If sufficient hearing requests are received, the notice of the date and time of the rulemaking hearing must be published in the Oregon Bulletin at least 14 days before the hearing.*

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Filed By:  
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NEED FOR THE RULE(S)

This rule is for a new program that makes supplemental payments for qualifying applicable emergency medical transportation services offered through a CCO Program created under HB 4030 (2016) that passed state legislation, along with authority of the 42 CFR Section 438.6 (c) Preprint forms as approved by the U.S. Department of Health and Human Services Centers for Medicare and Medicaid Services (CMS) with program federal agency approval needed each program year. This rule is needed so that the Authority may describe requirements and operations for payment and reporting within the new Ground Emergency Medical Transportation CCO Supplemental Payment Program in accordance with §438.6(c) Preprint forms approved by CMS.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE

House Bill 4030 (2016)  
§438.6(c) Preprint forms approved by CMS

STATEMENT IDENTIFYING HOW ADOPTION OF RULE(S) WILL AFFECT RACIAL EQUITY IN THIS STATE

According to the Centers for Disease Control and Prevention COVID-19 has unequally affected many racial and ethnic minority groups, putting them more at risk of getting sick and dying from COVID-19. The term "racial and ethnic minority groups" includes people of color with a wide variety of backgrounds and experiences. COVID-19 data shows that Black/African American, Hispanic/Latino, American Indian and Alaska Native persons in the United States experience higher rates of COVID-19-related hospitalization and death compared with non-Hispanic White populations. People of color have a higher instance of negative outcomes and are disproportionately impacted. Negative experiences are common to many people within these groups, and some social determinants of health have historically prevented them from having fair opportunities for economic, physical, and emotional health. According to the Institute of Medicine (US) Committee on Monitoring Access to Personal Health Care timely use of personal health

services to achieve the best possible health outcomes. For positive impact to the strategic goal of eliminating health inequity, the program payments are directed through managed care plans to maintain quality and access to ground emergency medical transportation health services needed. The program allows for supplemental funds directed to eligible ambulance providers for the high costs of, and for more access in rural areas of Oregon to, emergency medical transportation services.

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**FISCAL AND ECONOMIC IMPACT:**

Authority does not anticipate there will be a fiscal impact from these rule changes. The new program is to increase reimbursements by maximizing the federal funding available to eligible providers that provide ground emergency medical transportation services.

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**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).*

1. Impact on state agencies, units of local government and the public (ORS 183.335(2)(b)(E)):

2. Cost of compliance effect on small business (ORS 183.336) (Answer (a) through (c))

a. Estimate the number of small businesses and types of business and industries with small businesses subject to the rule: 2

b. Projected reporting, recordkeeping and other administrative activities required for compliance, including costs of professional services: Projected monthly reporting within existing reporting procedures, and other administrative financial accounting activities including reconciliation needed for the program payments.

c. Equipment, supplies, labor and increased administration required for compliance: Increased administration for compliance and financial accounting needed for the program payments.

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

Small businesses were invited and included in the Rules Advisory Committee (RAC). The RAC member composition included a small business representative. The RAC represented the interests of persons likely to be affected by the rule. The RAC Notification posted to public also included seeking additional members specifically to expand representation of different racial minorities to have more equitable representation in RAC meeting.

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**WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? YES**

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ADOPT: 410-136-3371

RULE SUMMARY: To reflect program policy operations for requirements and process for the GEMT CCO Supplemental Payment Program. OAR 410-136-3371 is the OAR citation where Medicaid payment rules will be implemented.

CHANGES TO RULE:

[410-136-3371](#)

Provider Requirements and Payment Processing for the CCO Ground Emergency Medical Transportation (GEMT) Supplemental Payments

(1) Definitions:

- (a) "Ground Emergency Medical Transportation Provider" or "GEMT Provider" means a GEMT provider that meets all the eligibility requirements as defined in the 42 CFR §438.6(c) Preprint.
- (b) "Ground Emergency Medical Transportation Services" or "GEMT Services" means the act of transporting an individual by ground from any point of origin to the nearest medical facility capable of meeting the emergency medical needs of the patient as described in the 42 CFR §438.6(c) Preprint.
- (c) "Managed Care Entity" has the meaning defined in OAR 410-141-3500.
- (d) "Participating Provider" has the meaning defined in OAR 410-141-3500.
- (e) "Qualified Directed Payment" means a supplemental payment made by the Authority to CCOs for GEMT providers' qualifying services when rendered by provider classes as defined in 42 CFR §438.6(c) Preprint forms approved by CMS.
- (f) "Supplemental Payment" means a payment amount set by the Authority, issued as a pass-through payment, for each approved procedure code to supplement allowable costs for GEMT services.
- (g) "§438.6(c) Preprint" means a 42 CFR §438.6(c) Preprint approved by U.S. Department of Health and Human Services Centers for Medicare and Medicaid Services (CMS) for Qualified Directed Payments to GEMT Providers for GEMT Services rendered during the applicable CCO contract rating period.

(2) GEMT Provider Eligibility Requirements:

- (a) To be eligible for supplemental payments, GEMT providers shall meet the following requirements:
  - (A) Be licensed by the State of Oregon to provide emergency medical transportation services for the approved service period receiving supplemental payment;
  - (B) Be enrolled as an Oregon Health Plan (OHP) Medicaid provider for the approved service period receiving supplemental payment;
  - (C) Provide GEMT services to Medicaid recipients for the approved service period.
- (b) Be a Governmental Unit provider in accordance with 2 CFR 200.
  - (A) Be a participating provider having a contractual relationship with a Coordinated Care Organizations (CCO) on the date of GEMT services; and
  - (B) Have an agreement in place with the Oregon Health Authority (Authority) for the approved service time period to allow for transfer of funds between participating GEMT provider and the Authority to supplement the allowable costs of providing qualifying emergency medical services to CCO members.

(3) Supplemental qualified directed payment process:

- (a) A GEMT provider may participate in the GEMT supplemental payment program described in this rule if the GEMT provider is a Participating Provider in accordance with OAR 410-141-3500 on the date of service during the approved service period.
- (b) The GEMT CCO Supplemental Payment Program is for supplemental payments made by the Authority to CCOs for GEMT providers' qualifying services when rendered by GEMT providers for the approved service period.
- (c) In accordance with 42 CFR §438.6(c)(2)(i)(A), the supplemental payments are based on paid CCO member encounters in the Medicaid Management Information System (MMIS) for approved qualifying GEMT services' procedure codes.
- (d) The Authority shall pay any federal financial participation received from CMS, for qualifying GEMT services, to the CCO.
- (e) The CCO shall increase, by the same amount, the amount of reimbursement paid to the appropriate GEMT provider.
- (f) The non-federal share portion of the supplemental qualified directed payment is contributed by GEMT providers only.
- (g) The GEMT provider shall agree to pay a fee to reimburse the Authority for the costs of administering the program. The fee may not exceed 20 percent of the supplemental payment provided.
- (h) The Authority may adjust the amount of supplemental payments based on actual utilization and available GEMT funds for the period receiving supplemental payment.

(4) Reporting and Billing Processes:

- (a) The Authority shall combine the weekly encounters into a report to assist CCOs in distributing the program's supplemental funds as a pass-through to the appropriate GEMT provider in the manner agreed to by CCO and GEMT provider.
  - (A) In 2021 the report shall be distributed at least once to each CCO and each GEMT provider.
  - (B) In each subsequent program year that is approved by CMS, the report shall be distributed monthly to each CCO and each GEMT provider.
- (b) After receipt of the report, CCOs shall submit a qualified directed payment for the amount indicated on the

report to an account established by the appropriate GEMT provider;¶

(A) Adjustments shall be processed weekly through the Medicaid payment system and included in the subsequent monthly report;¶

(B) If an error is identified in the monthly report, the CCO shall make the payment based on the original amount provided in the report. The Authority shall identify separately the correction in the following month's report and adjust the total payment amount to account for the error.¶

(c) Payment by the CCO as a Managed Care Entity (MCE) to participating providers for qualifying GEMT services shall be in accordance with OAR 410-141-3565 Managed Care Entity Billing;¶

(d) Consistent with OAR 410-141-3610, GEMT supplemental payments are considered premium equivalents and subject to the MCE assessment under OAR 410-141-3601.¶

(5) Quality Measurement:¶

(a) In accordance with 42 CFR §438.6(c)(2)(i)(C), this payment arrangement must advance at least one of the goals and objectives in Oregon's Medicaid quality strategy required per 42 CFR §438.340 and the Authority will review progress on the advancement of the state's goal(s) and objective(s) in the quality strategy identified in this section;¶

(b) GEMT providers shall submit the quality measurement data specified in the §438.6(c) Preprint.¶

(6) Authority Responsibilities:¶

(a) The Authority shall apply for program authorization through a §438.6(c) Preprint for each calendar year;¶

(b) The Authority shall make a supplemental payment only if the GEMT provider meets criteria established by the Authority for the GEMT CCO Supplemental payment program in accordance with applicable federal requirements approved by CMS for the applicable program year;¶

(c) The Authority shall make a supplemental payment for qualified paid CCO encounters submitted through the Medicaid Management Information System (MMIS) provided to members enrolled in a CCO, with an approved procedure code that meets criteria for payment established by the Authority, up to one encounter, per CCO member, per day;¶

(d) Upon receipt of an acceptable funds transfer from GEMT provider consistent with Section 3 of this rule, the Authority shall verify data received and draw the federal funds in an amount consistent with the applicable Oregon Federal Medical Assistance Percentage (FMAP).

Statutory/Other Authority: ORS 413.042, 414.025

Statutes/Other Implemented: ORS 413.234, 413.235