



STATE OF CONNECTICUT

DEPARTMENT OF SOCIAL SERVICES

55 FARMINGTON AVENUE • HARTFORD, CONNECTICUT 06105

DEPARTMENT OF SOCIAL SERVICES

Notice of Intent to Adopt Regulations

Regulation 12-16 – Outpatient Hospital Services (PR 2016-018)

In accordance with sections 4-168(a), 17b-10, and 17b-239 of the Connecticut General Statutes, as amended to date, the Department of Social Services (the “Department”) gives notice that pursuant to the authority of sections 17b-3, 17b-10, 17b-262 and 17b-239, of the Connecticut General Statutes, as amended to date, including, but not limited to, the amendments included in the 2016 supplement to the Connecticut General Statutes and section 87 of Public Act 16-3 of the May 2016 special session, the Department intends to amend the Regulations of Connecticut State Agencies to adopt a regulation concerning Outpatient Hospital Services. A description of the proposed regulations, a statement of the purposes for which they are proposed, and information concerning when, where and how interested parties may present views on and obtain copies of the proposed regulations is provided below.

The Department plans to implement and begin operating under these policies and procedures effective July 1, 2016, to the extent authorized pursuant to sections 17b-10 and 17b-239 of the Connecticut General Statutes, as amended to date, including, but not limited to, the amendments included in the 2016 supplement to the Connecticut General Statutes and section 87 of Public Act 16-4 of the May 2016 special session.

1. Description of the Proposed Regulations

The proposed regulation consolidates and updates all outpatient hospital regulations concerning the Medicaid program into one regulation. It also amends various provisions as necessary to implement the outpatient hospital reimbursement reforms in accordance with section 17b-239 of the Connecticut General Statutes. The regulation is described in more detail in the Statement of Purpose immediately below.

2. Statement of Purpose

The purposes of the regulation are to: (1) update and recodify the department’s outpatient hospital medical services policy in regulation form; (2) update and consolidate all of the department’s outpatient hospital regulations into one regulation; (3) modernize the outpatient hospital reimbursement system in accordance with section 17b-239 of the Connecticut General Statutes; (4) update and make consistent all regulations regarding the payment of laboratory services; and (5) make various updates and clarifications to various provider regulations.

(A) The problems, issues or circumstances that the regulation proposes to address:

Section 17b-239 of the Connecticut General Statutes requires the department to reimburse for outpatient hospital services using an outpatient prospective payment system (OPPS) that uses an ambulatory payment classification (APC) methodology to reimburse for most outpatient hospital services. This payment reform modernizes the department's outpatient hospital reimbursement methodology and is similar to the outpatient hospital reimbursement methodology used by Medicare, with various modifications. Under OPPS, services paid using the APC reimbursement methodology will be paid to hospitals solely for the facility and technical components of hospital services, which means that physicians and certain other licensed practitioners must be reimbursed separately from the hospital for providing professional services associated with hospital services reimbursed under the APC reimbursement methodology. The regulation implements the OPPS both by establishing rules for hospital reimbursement and rate-setting as well as enabling the department to reimburse physicians and certain other licensed practitioners for their professional services separately from the hospital.

In order to improve clarity, this regulation also updates and consolidates all outpatient hospital regulations and repeals regulations that are obsolete or are being consolidated into this regulation, as well as repealing an obsolete clinic regulation. The regulation amends the provider participation regulations to prohibit providers from charging members for cancelled visits or appointments not kept and for providing services incidental to covered services. This regulation amends the independent clinical laboratory regulation to conform to outpatient hospital laboratory provisions being added in this regulation. The regulation also amends the nurse practitioner regulation to add flexibility regarding the rate of reimbursement.

Finally, this regulation also makes several changes to be consistent with the changes being made to payment for laboratory services provided by hospitals. Specifically, the new outpatient hospital regulation aligns with the payment requirement in the independent laboratory regulation, which provides that payment is made at the lowest of several amounts, including any amount charged or accepted by any other person or entity, such as a commercial health insurance plan, which is also known as the "most favored nation" requirement. In order to make this payment rule consistent for laboratory services provided by any provider type, not solely hospitals and independent laboratories, this regulation aligns the payment rules for laboratory services in various other applicable regulations, including the physician, nurse practitioner, nurse-midwife, medical clinic, family planning clinic, psychiatrist, podiatrist and behavioral health clinic regulations. This regulation also clarifies the language in the physician regulation regarding the contexts in which a physician group may be paid for providing laboratory services. Relatedly, this regulation removes the most favored nation payment rule from a variety of other provider regulations, including the

naturopath, chiropractor, independent radiology, psychologist, and independent therapist regulations.

(B) The main provisions of the regulation: (1) Establish a new consolidated outpatient hospital regulation that updates provisions from the department's outpatient hospital medical services policy and other regulations regarding coverage, billing, provider enrollment, documentation and related requirements; (2) implement outpatient hospital payment modernization by setting forth specific rules for reimbursement and rate-setting both for services reimbursed under APCs and non-APC reimbursement methodologies; (3) update and consolidate various other outpatient hospital regulations regarding hospital reimbursement and rate-setting, utilization review and border and out-of-state hospitals; (4) amend various other regulations as necessary to enable the department to reimburse physicians and certain other licensed practitioners separately from the hospital, as required by the services within OPSS that will be reimbursed using the APC reimbursement methodology; (5) update citations in other regulations to regulations that have been renumbered or repealed; (6) make various technical and other updates and revisions; (7) repeal regulations that are obsolete or have been consolidated into the new outpatient hospital regulation, as well as repealing an obsolete clinic regulation; (8) amending the provider participation regulations to prohibit providers from charging members for cancelled visits or appointments not kept and for providing services incidental to covered services; (9) amending the independent clinical laboratory regulation to conform to outpatient hospital laboratory provisions being added in this regulation; (10) amending the nurse practitioner regulation to add flexibility regarding the rate of reimbursement; (11) amending the physician regulation to clarify the contexts in which physician laboratory services are reimbursed; and (12) updating the payment language for various regulations as referenced in paragraph (A) above.

(C) The legal effects of the regulation, including all of the ways that the regulation would change existing regulations or other laws: The regulation recodifies and updates the existing outpatient hospital medical services policy in regulation form. The regulation updates and consolidates all outpatient hospital regulations into one regulation. This regulation also amends existing regulations as necessary to enable the department to implement the hospital payment reform project as well as updating cross-references to regulations that are being repealed or renumbered in this regulation. This regulation repeals older outpatient hospital regulations that are obsolete, redundant or have been consolidated into this new regulation, as well as repealing an obsolete clinic regulation. This regulation amends the provider participation regulations to prohibit providers from charging members for cancelled visits or appointments not kept and for providing services incidental to covered services. This regulation amends the independent clinical laboratory regulation to conform to outpatient hospital laboratory provisions being added in this regulation. The regulation also amends the nurse practitioner regulation to add flexibility regarding the rate of

reimbursement. The regulation amends the physician regulation to clarify the contexts in which physician laboratory services are reimbursed. Finally, this regulation also updates the payment language in a variety of provider regulations as described in paragraph (A) above.

3. Statutory Authority for the Proposed Regulation

The statutory authority for the proposed regulation is sections 17b-3, 17b-10, 17b-262 and 17b-239, as amended to date, of the Connecticut General Statutes, including the amendments in the 2016 supplement to the Connecticut General Statutes and section 87 of Public Act 16-3 of the May 2016 special session.

4. Public Comment Period

Public comments must be submitted during the time period from June 30, 2016 through August 2, 2016.

5. Procedure for Submitting Public Comments

Interested persons may send the Department written comments about this regulation during the public comment period listed in Item 4 above using one of the following methods:

- (A) Online at the Connecticut eRegulations System, <http://eregulations.ct.gov>. Select “Open for Public Comment” then select this regulation or search for this regulation on the Connecticut eRegulations System. Then follow instructions for submitting comments;
- (B) Email: brenda.parrella@ct.gov; or
- (C) U.S. Mail or Express Delivery Service to: Department of Social Services, Office of Legal Counsel, Regulations and Administrative Hearings, 55 Farmington Avenue, Hartford, Connecticut, 06105, Attention: Brenda Parrella, Director.

When submitting comments and other correspondence, please reference “DSS Regulation 12-16 – Outpatient Hospital Services.”

6. Public Hearing for this Regulation

In addition to sending the Department written comments as described in Item 5 above, interested persons may verbally present their views on the proposed regulation at a public hearing. The public hearing regarding this regulation is scheduled for Friday, August 5, 2016, from 10:00 to 11:00 a.m. at the Department of Social Services, 55 Farmington Avenue, Hartford, Connecticut 06105, 1st Floor, Rooms 1008 and 1011.

Parking is limited. Please plan to arrive early and ensure additional time for parking. Limited visitor parking is available across the street at 50 Farmington Avenue. Additional parking is available, at standard parking rates, in various parking lots open to the public.

Please visit <http://www.hartford.com/parking/> for additional information about other parking options. The closest public parking lot to the Department's Central Office is the Union Station parking lot, which is located across the street from Hartford's Union Station train and bus station.

If you require special accommodations, such as handicapped accessible parking, please contact the Department not less than ten days before the public hearing at the Agency Contact listed in in Item 8 below.

7. Procedure(s) for Obtaining Copies of the Proposed Regulations and Related Documents

This regulation and related documents (including the fiscal note and small business impact statement) are posted to the Connecticut eRegulations System, <http://eregulations.ct.gov>, select "Regulations in Progress", then select Department of Social Services – Outpatient Hospital Services or search for this regulation on the Connecticut eRegulations System.

A copy of the complete text of this regulation is also available at <http://www.ct.gov/dss>; select "Publications," then select "Policies and Regulations," then select "Notices of Intent, Operational Policies, and Proposed Regulations," then select "Outpatient Hospital".

8. Agency Contact for Questions

For any procedural questions or to obtain a copy of the complete text of this regulation, fiscal note, and other related documents (in addition to the methods described in Item 7 above), please contact the Department of Social Services, Office of Legal Counsel, Regulations and Administrative Hearings, 55 Farmington Avenue, Hartford, Connecticut 06105, Attention: Joel Norwood, Staff Attorney; email: joel.norwood@ct.gov.