

## October 2011 Ambulatory Patient Groups (APGs) Payment Methodology

Effective date: 3/14/12

Pursuant to the authority vested in the Commissioner of Health by sections 2807(2-a)(e) of the Public Health Law, as amended by Part C of Chapter 58 of the Laws of 2008 and Part C of Chapter 58 of the Laws of 2009, the following sections of Subpart 86-8 of Title 10 (Health) of the Official Compilation of Codes, Rules and Regulations of the State of New York is hereby amended, to be effective upon publication of the Notice of Adoption in the New York State Register, and to read as follows:

Subdivision (r) of section 86-8.2 is hereby repealed.

Section 86-8.7 is hereby repealed effective October 1, 2011 and a new section 86-8.7 is added to read as follows:

(a) The table of APG Weights, Procedure Based Weights and units, and APG Fee Schedule Fees and units for each effective period are published on the New York State Department of Health website at: [http://www.health.state.ny.us/health\\_care/medicaid/rates/apg/docs/apg\\_payment\\_components.xls](http://www.health.state.ny.us/health_care/medicaid/rates/apg/docs/apg_payment_components.xls)

Subdivision (c) of section 86-8.9 is repealed and a new subdivision (c) is added, to read as follows:

(c) Drugs purchased under the 340B drug benefit program and billed under the APG reimbursement methodology shall be reimbursed at a reduced rate comparable to the reduced cost of drugs purchased through the 340B drug benefit program.

Subdivision (d) of section 86-8.9 is amended to read as follows:

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94 CARDIAC REHABILITATION

274 PHYSICAL THERAPY, GROUP

275 SPEECH THERAPY AND EVALUATION, GROUP

322 MEDICATION ADMINISTRATION AND OBSERVATION

414 LEVEL I IMMUNIZATION AND ALLERGY IMMUNOTHERAPY

415 LEVEL II IMMUNIZATION

416 LEVEL III IMMUNIZATION

428 PATIENT EDUCATION, INDIVIDUAL

429 PATIENT EDUCATION, GROUP

451 SMOKING CESSATION TREATMENT

Subdivision (h) of section 86-8.10 is amended to read as follows:

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065 RESPIRATORY THERAPY

066 PULMONARY REHABILITATION

117 HOME INFUSION

190 ARTIFICIAL FERTILIZATION

311 FULL DAY PARTIAL HOSPITALIZATION FOR SUBSTANCE ABUSE

313 HALF DAY PARTIAL HOSPITALIZATION FOR SUBSTANCE ABUSE

314 HALF DAY PARTIAL HOSPITALIZATION FOR MENTAL ILLNESS

319 ACTIVITY THERAPY

371 ORTHODONTICS

430 CLASS I CHEMOTHERAPY DRUGS

431 CLASS II CHEMOTHERAPY DRUGS

432 CLASS III CHEMOTHERAPY DRUGS

433 CLASS IV CHEMOTHERAPY DRUGS

434 CLASS V CHEMOTHERAPY DRUGS

441 CLASS VI CHEMOTHERAPY DRUGS

443 CLASS VII CHEMOTHERAPY DRUGS

452 DIABETES SUPPLIES

453 MOTORIZED WHEELCHAIR

454 TPN FORMULAE

456 MOTORIZED WHEELCHAIR ACCESSORIES

465 CLASS XIII COMBINED CHEMOTHERAPY AND PHARMACOTHERAPY

999 UNASSIGNED

Subdivision (i) of section 86-8.10 is amended to read as follows:

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281 MAGNETIC RESONANCE ANGIOGRAPHY – HEAD AND/OR NECK

282 MAGNETIC RESONANCE ANGIOGRAPHY – CHEST

283 MAGNETIC RESONANCE ANGIOGRAPHY – OTHER SITES

284 MYELOGRAPHY

285 MISCELLANEOUS RADIOLOGICAL PROCEDURES WITH CONTRAST

286 MAMMOGRAPHY

287 DIGESTIVE RADIOLOGY

288 DIAGNOSTIC ULTRASOUND EXCEPT OBSTETRICAL AND VASCULAR OF LOWER  
EXTREMITIES

289 VASCULAR DIAGNOSTIC ULTRASOUND OF LOWER EXTREMITIES

290 PET SCANS

291 BONE DENSITOMETRY

292 MRI – ABDOMEN

293 MRI – JOINTS

294 MRI – BACK

295 MRI – CHEST

296 MRI – OTHER

297 MRI - BRAIN

298 CAT SCAN BACK

299 CAT SCAN - BRAIN

300 CAT SCAN - ABDOMEN

301 CAT SCAN - OTHER

302 ANGIOGRAPHY, OTHER

303 ANGIOGRAPHY, CEREBRAL

330 LEVEL I DIAGNOSTIC NUCLEAR MEDICINE

331 LEVEL II DIAGNOSTIC NUCLEAR MEDICINE

332 LEVEL III DIAGNOSTIC NUCLEAR MEDICINE

373 LEVEL I DENTAL FILM

374 LEVEL II DENTAL FILM

375 DENTAL ANESTHESIA

380 ANESTHESIA

390 LEVEL I PATHOLOGY

391 LEVEL II PATHOLOGY

392 PAP SMEARS

393 BLOOD AND TISSUE TYPING

394 LEVEL I IMMUNOLOGY TESTS

395 LEVEL II IMMUNOLOGY TESTS

396 LEVEL I MICROBIOLOGY TESTS

397 LEVEL II MICROBIOLOGY TESTS

398 LEVEL I ENDOCRINOLOGY TESTS

399 LEVEL II ENDOCRINOLOGY TESTS

400 LEVEL I CHEMISTRY TESTS

401 LEVEL II CHEMISTRY TESTS

402 BASIC CHEMISTRY TESTS

403 ORGAN OR DISEASE ORIENTED PANELS

404 TOXICOLOGY TESTS

405 THERAPEUTIC DRUG MONITORING

406 LEVEL I CLOTTING TESTS

407 LEVEL II CLOTTING TESTS

408 LEVEL I HEMATOLOGY TESTS

409 LEVEL II HEMATOLOGY TESTS

410 URINALYSIS

411 BLOOD AND URINE DIPSTICK TESTS

413 CARDIOGRAM

435 CLASS I PHARMACOTHERAPY

436 CLASS II PHARMACOTHERAPY

437 CLASS III PHARMACOTHERAPY

438 CLASS IV PHARMACOTHERAPY

439 CLASS V PHARMACOTHERAPY

440 CLASS VI PHARMACOTHERAPY

444 CLASS VII PHARMACOTHERAPY

448 AFTER HOURS SERVICES

[451 SMOKING CESSATION TREATMENT]

455 IMPLANTED TISSUE OF ANY TYPE

457 VENIPUNCTURE

460 CLASS VIII COMBINED CHEMOTHERAPY AND PHARMACOTHERAPY

461 CLASS IX COMBINED CHEMOTHERAPY AND PHARMACOTHERAPY

462 CLASS X COMBINED CHEMOTHERAPY AND PHARMACOTHERAPY

463 CLASS XI COMBINED CHEMOTHERAPY AND PHARMACOTHERAPY

464 CLASS XII COMBINED CHEMOTHERAPY AND PHARMACOTHERAPY

470 OBSTETRICAL ULTRASOUND

471 PLAIN FILM

472 ULTRASOUND GUIDANCE

473 CT GUIDANCE

490 INCIDENTAL TO MEDICAL, SIGNIFICANT PROCEDURE OR THERAPY VISIT

## **REGULATORY IMPACT STATEMENT**

### **Statutory Authority:**

Authority for the promulgation of these regulations is contained in section 2807(2-a)(e) of the Public Health Law, as amended by Part C of Chapter 58 of the Laws of 2008 and Part C of Chapter 58 of the Laws of 2009, which authorize the Commissioner of Health to adopt and amend rules and regulations, subject to the approval of the State Director of the Budget, establishing an Ambulatory Patient Groups methodology for determining Medicaid rates of payment for diagnostic and treatment center services, free-standing ambulatory surgery services and general hospital outpatient clinics, emergency departments and ambulatory surgery services.

### **Legislative Objective:**

The Legislature's mandate is to convert, where appropriate, Medicaid reimbursement of ambulatory care services to a system that pays differential amounts based on the resources required for each patient visit, as determined through Ambulatory Patient Groups ("APGs"). The APGs refer to the Enhanced Ambulatory Patient Grouping classification system which is owned and maintained by 3M Health Information Systems. The Enhanced Ambulatory Group classification system and the clinical logic underlying that classification system, the EAPG software, and the Definitions Manual associated with that classification system, are all proprietary to 3M Health Information Systems. APG-based Medicaid Fee For Service payment systems have been implemented in several states including: Massachusetts, New Hampshire, and Maryland.

### **Needs and Benefits:**

This amendment replaces the actual APG weights, APG procedure based weights, and the APG fee schedule amounts listed in section 86-8.7 with a link to the New York State Department of Health

website where all of the APG weights, APG procedure based weights, and the APG fee schedule amounts are posted for all periods. Removing this specificity from the regulation text obviates the need for quarterly amendments to the APG regulation.

## **COSTS**

### **Costs for the Implementation of, and Continuing Compliance with this Regulation to the Regulated Entity:**

There will be no additional costs to providers as a result of these amendments.

### **Costs to Local Governments:**

There will be no additional costs to local governments as a result of these amendments.

### **Costs to State Governments:**

There will be no additional costs to NYS as a result of these amendments.

### **Costs to the Department of Health:**

There will be no additional costs to the Department of Health as a result of these amendments.

### **Local Government Mandates:**

There are no local government mandates.

### **Paperwork:**

There is no additional paperwork required of providers as a result of these amendments.

### **Duplication:**

This regulation does not duplicate other state or federal regulations.



**Alternatives:**

These regulations are in conformance with Public Health Law section 2807(2-(a)(e)). Although the 2009 amendments to PHL 2807 (2-a) authorize the Commissioner to adopt rules to establish alternative payment methodologies or to continue to utilize existing payment methodologies where the APG is not yet appropriate or practical for certain services, the utilization of the APG methodology is in its relative infancy and is otherwise continually monitored, adjusted and evaluated for appropriateness by the Department and the providers. This rulemaking is in response to this continually evaluative process.

**Federal Standards:**

This amendment does not exceed any minimum standards of the federal government for the same or similar subject areas.

**Compliance Schedule:**

The proposed amendment will become effective upon publication of the Notice of Adoption in the New York State Register.

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## **REGULATORY FLEXIBILITY ANALYSIS FOR SMALL BUSINESS AND LOCAL GOVERNMENTS**

### **Effect on Small Business and Local Governments:**

For the purpose of this regulatory flexibility analysis, small businesses were considered to be general hospitals, diagnostic and treatment centers, and free-standing ambulatory surgery centers. Based on recent data extracted from providers' submitted cost reports, seven hospitals and 245 DTCs were identified as employing fewer than 100 employees.

### **Compliance Requirements:**

No new reporting, record keeping or other compliance requirements are being imposed as a result of these rules.

### **Professional Services:**

No new or additional professional services are required in order to comply with the proposed amendments.

### **Compliance Costs:**

No initial capital costs will be imposed as a result of this rule, nor is there an annual cost of compliance.

### **Economic and Technical Feasibility:**

Small businesses will be able to comply with the economic and technological aspects of this rule. The proposed amendments are intended to further reform the outpatient/ambulatory care fee-for-service

Medicaid payment system, which is intended to benefit health care providers, including those with fewer than 100 employees.

**Minimizing Adverse Impact:**

The proposed amendments apply to certain services of general hospitals, diagnostic and treatment centers and freestanding ambulatory surgery centers. The Department of Health considered approaches specified in section 202-b (1) of the State Administrative Procedure Act in drafting the proposed amendments and rejected them as inappropriate given that this reimbursement system is mandated in statute.

**Small Business and Local Government Participation:**

Local governments and small businesses were given notice of these proposals by the Department's issuance in the State Register of a federal public notice on October 5, 2011.

## **RURAL AREA FLEXIBILITY ANALYSIS**

### **Effect on Rural Areas:**

Rural areas are defined as counties with a population less than 200,000 and, for counties with a population greater than 200,000, includes towns with population densities of 150 persons or less per square mile. The following 43 counties have a population less than 200,000:

Allegany	Hamilton	Schenectady
Cattaraugus	Herkimer	Schoharie
Cayuga	Jefferson	Schuyler
Chautauqua	Lewis	Seneca
Chemung	Livingston	Steuben
Chenango	Madison	Sullivan
Clinton	Montgomery	Tioga
Columbia	Ontario	Tompkins
Cortland	Orleans	Ulster
Delaware	Oswego	Warren
Essex	Otsego	Washington
Franklin	Putnam	Wayne
Fulton	Rensselaer	Wyoming
Genesee	St. Lawrence	Yates
Greene		

The following 9 counties have certain townships with population densities of 150 persons or less per square mile:

Albany	Erie	Oneida
Broome	Monroe	Onondaga
Dutchess	Niagara	Orange

### **Compliance Requirements:**

No new reporting, record keeping, or other compliance requirements are being imposed as a result of this proposal.

**Professional Services:**

No new additional professional services are required in order for providers in rural areas to comply with the proposed amendments.

**Compliance Costs:**

No initial capital costs will be imposed as a result of this rule, nor is there an annual cost of compliance.

**Minimizing Adverse Impact:**

The proposed amendments apply to certain services of general hospitals, diagnostic and treatment centers and freestanding ambulatory surgery centers. The Department of Health considered approaches specified in section 202-bb (2) of the State Administrative Procedure Act in drafting the proposed amendments and rejected them as inappropriate given that the reimbursement system is mandated in statute.

**Opportunity for Rural Area Participation:**

Local governments and small businesses were given notice of these proposals by the Department's issuance in the State Register of a federal public notice on October 5, 2011.

## **JOB IMPACT STATEMENT**

A Job Impact Statement is not required pursuant to Section 201-a(2)(a) of the State Administrative Procedure Act. It is apparent, from the nature and purpose of the proposed regulations, that they will not have a substantial adverse impact on jobs or employment opportunities.