Secretary of State

NOTICE OF PROPOSED RULEMAKING

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
Sandy Cafourek	500 Summer St. NE, Salem, OR 97301	503-945-6430
Rules Coordinator	Address	Telephone

RULE CAPTION

Update Ostomy and Complex Rehabilitation Code Tables and Rule Language

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

RULEMAKING ACTION

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

ADOPT:

AMEND: OAR 410-122-0186

REPEAL:

RENUMBER:

AMEND & RENUMBER:

Stat. Auth.: ORS 413.042 and 414.065

Other Auth.:

Stats. Implemented: ORS 414.065

RULE SUMMARY

Amending this rule to attach the correct tables for Ostomy and Complex Rehabilitation Codes to the rule on the Secretary of State website and update rule language.

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.

January 16, 2015, by 5 p.m. SC — Send comments to: dmap.rules@state.or.us

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

Rhonda Busek	Rhonda Busek	11-23-15
Signature	Printed name	Date

Note: Notices must be submitted by the 15th day of the month to be published in the next month's *Oregon Bulletin.* A Rulemaking Hearing may be requested in writing by 10 or more people, or by an association with 10 or more members, within 21 days following notice publication or 28 days from the date notice was sent to people on the agency's interested party mailing list, whichever is later. In such cases a Hearing Notice must be published in the *Oregon Bulletin* at least 14 days before the hearing.

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

Update Ostomy and Complex Rehabilitation Code Tables and Rule Language

Rule Caption (Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.)

In the Matter of: The amendment of 410-122-0186

Statutory Authority: ORS 413.042 and 414.065

Other Authority:

Stats. Implemented: ORS 414.065

Need for the Rule(s): The Authority needs to amend this rule to include corrected tables for Ostomy and Complex Rehabilitation Codes published on the Secretary of State website.

Documents Relied Upon, and where they are available: None

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)): Amending this rule will have no fiscal impact on the Authority, other state agencies, units of local government, the public, or businesses, including small businesses.

2. Cost of compliance effect on small business (ORS 183.336):

a. Estimate the number of small businesses and types of business and industries with small businesses subject to the rule: None

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? Amending this rule affects no small businesses.

Administrative Rule Advisory Committee consulted?: No. If not, why?: This filing is to attach the correct tables to the rule on the Secretary of State website and to update rule language.

Rhonda Busek | Rhonda Busek | 11-23-15

Signature | Printed Name | Date

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

410-122-0186

Payment Methodology

(1) The Division of Medical Assistance Programs (Division) utilizes a payment methodology for covered durable medical equipment, prosthetics, orthotics and supplies (DMEPOS) ~~which~~ that is generally based on the 2012 Medicare fee schedule:~~.~~

(a) The Division fee schedule amount is 82.6 percent of 2012 Medicare Fee Schedule for items covered by Medicare and the Division, except for:

(A) Ostomy supplies fee schedule amounts are 93.3 percent of 2012 Medicare Fee Schedule (See Table 122-0186-1 for list of Ostomy codes subject to this pricing); and

(B) Prosthetic and Orthotic fee schedule amounts (L-codes) are 82.6 percent of 2012 Medicare Fee Schedule; and

(C) Complex Rehabilitation items and /services~~,~~ other than power wheelchairs, fee schedule amounts are 88 percent of 2012 Medicare Fee Schedule (See Table 122-0186-2 for list of Complex Rehabilitation codes subject to this pricing); and

(D) Group 1 power wheelchairs (K0813-K0816) and Group 2 power wheelchairs with no added power option (K0820-K0829) fee schedule amounts are 55 percent of 2012 Medicare Fee Schedule;

(E) Group 3 power wheelchairs (K0835-K0864) fee schedule amounts are 58.7 percent of 2012 Medicare Fee Schedule;

(b) For items that are not covered by Medicare~~,~~ but covered by the Division, the fee schedule amount shall be 99 percent of the Division's ~~DMAP's~~ published rate effective 7/31/11;~~.~~

(c) For new codes added by the Center for Medicare and Medicaid Services (CMS), payment ~~will~~ shall be based on the most current Medicare fee schedule and ~~will~~ shall follow the same payment methodology as stated in section (1)(a)(A-E) of this rule. New codes ~~which~~ that do not appear on the current Medicare fee schedule ~~will~~ shall be manually priced as indicated in section (4)(a-c) of this rule.

(2) Payment is calculated using the lesser of the following:

(a) The Division fee schedule amount, using the above methodology in section (1) (a) and (b); or

(b) The manufacturer's suggested retail price (MSRP); or

(c) The actual charge submitted.

(3) The Division shall reimburses for the lowest level of service that meets medical appropriateness. (See OAR 410-120-1280 Billing; and 410-120-1340 Payment).

(4) The Division shall reimburse miscellaneous codes E1399 (durable medical equipment, miscellaneous) and K0108 (wheelchair component or accessory, not otherwise specified), and any code that requires manual pricing, using the lesser of the following:

(a) Seventy-five percent (75) of Manufacturer's Suggested Retail Price (MSRP) verifiable with quote, invoice, or bill from the manufacturer which that clearly states the amount indicated is MSRP; or

(b) If MSRP is not available then reimbursement shall be acquisition cost plus 20 percent, verifiable with quote, invoice, or bill from the manufacturer which that clearly states the amount indicated is acquisition cost; or

(c) Actual charge submitted by the provider.

(5) Reimbursement on miscellaneous codes E1399 and K0108 shall be capped at $3,200.00.

(6) Prior authorization (PA) is required for miscellaneous codes E1399, K0108, and A4649 (surgical supply; miscellaneous) when the cost is greater than $150, and the DMEPOS provider must submit the following documentation:

(a) A copy of the items from section (4)(a) and (b) that will be used to bill; and,

(b) Name of the manufacturer, description of the item, including product name or and/ model name and number, serial number when applicable, and technical specifications;

(c) A picture of the item upon request by the Division.

(7) The DMEPOS provider must shall submit verification for items billed with miscellaneous codes A4649, E1399, and K0108 when no specific Healthcare Common Procedure Coding System (HCPCS) code is available. Providers may are allowed to submit verification from an organization such as the Medicare Pricing, Data Analysis and Coding (PDAC) contractor.

(8) The Division may review items that exceed the maximum allowable or cap on a case-by-case basis and may ask request the provider submit the following documentation for reimbursement:

(a) Documentation which supports that the client meets all of the coverage criteria for the less costly alternative; and,

(b) A comprehensive evaluation by a licensed clinician (who is not an employee of or otherwise paid by a provider) that clearly explains why the less costly alternative is not sufficient to meet the client's medical needs, and;

(c) The expected hours of usage per day, and;

(d) The expected outcome or change in the client's condition.

(9) PA is not required f~~F~~or codes A4649, E1399, and K0108 when the cost is $150.00 or less per each unit:

(a) Only items that have received an official product review coding decision from an organization such as PDAC with codes A4649, E1399, or K0108 shall be billed to the Division. ~~-~~These products may be listed in the PDAC Durable Medical Equipment Coding System Guide (DMECS) DMEPOS Product Classification Lists;

(b) Subject to service limitations of the Division's rules;

~~(c) PA is not required;~~

(d~~c~~) The amount billed to the Division ~~must~~ ~~shall~~ may not exceed 75 percent of ~~Manufacturer's Suggested Retail Price~~ (MSRP~~)~~. The provider must ~~is required to~~ retain documentation of the quote, invoice, or bill to allow the Division to verify through audit procedures.

(10) For rented equipment, the equipment is considered paid for and owned by the client when the Division fee schedule allowable is met or the actual charge from the provider is met, whichever is lowest. ~~-~~The provider must transfer title of the equipment to the client.

~~(11) Table 122-10860186-1: Ostomy Codes, Table 122-0186-2: Complex Rehabilitation Codes~~

Stat~~utory~~ Auth~~ority~~: ORS 413.042 and 414.065

Stats~~utes~~ Implemented: 414.065

Table 122-0186-1: Ostomy Codes—REWRITTEN

Medicare covered codes	
A4361	A4397
A4372	A5051
A4378	A5062
A4383	A5081
A4390	A4369
A4395	A4376
A4402	A4381
A5054	A4388
A5072	A4393
A4362	A4398
A4373	A5052
A4379	A5063
A4384	A5093
A4391	A4371
A4396	A4377
A4404	A4382
A5055	A4389
A5073	A4394
A4367	A4399
A4375	A4435
A4380	A4456
A4385	A5053
A4392	A5071

Non-Medicare codes	
A4455	A5121
A4405	A4366
A4410	A4408
A4415	A4413
A4420	A4418
A4425	A4423
A4430	A4428
A5061	A4433
A4363	A5122
A4406	A4387
A4411	A4409
A4416	A4414
A4421	A4419
A4426	A4424
A4431	A4429
A5120	A4434
A4364	A5126
A4407	
A4412	
A4417	
A4422	
A4427	
A4432	

Table 122-0186-2: Complex Rehabilitation—REWRITTEN

E0950	E2206	E2371	K0037
E0951	E2209	E2373	K0038
E0952	E2210	E2374	K0039
E0955	E2211	E2375	K0040
E0956	E2212	E2376	K0041
E0957	E2213	E2377	K0043
E0958	E2214	E2381	K0044
E0960	E2215	E2382	K0045
E0966	E2219	E2383	K0046
E0967	E2221	E2384	K0047
E0973	E2222	E2385	K0050
E0974	E2224	E2386	K0051
E0978	E2225	E2387	K0052
E0981	E2226	E2388	K0053
E0982	E2231	E2389	K0056
E0992	E2310	E2390	K0065
E0995	E2311	E2391	K0069
E1002	E2312	E2392	K0070
E1003	E2313	E2394	K0071
E1004	E2321	E2395	K0072
E1005	E2322	E2396	K0073
E1006	E2323	E2601	K0077
E1007	E2324	E2602	K0098
E1008	E2325	E2603	K0733
E1010	E2326	E2604	K0739
E1014	E2327	E2605	
E1015	E2328	E2606	
E1016	E2329	E2607	

E1020	E2330	E2608	
E1028	E2340	E2611	
E1029	E2341	E2612	
E1030	E2342	E2613	
E1161	E2343	E2614	
E1232	E2351	E2615	
E1233	E2360	E2616	
E1234	E2361	E2619	
E1235	E2362	E2620	
E1236	E2363	E2621	
E1237	E2364	K0005	
E1238	E2365	K0007	
E2201	E2366	K0015	
E2202	E2368	K0017	
E2203	E2369	K0018	
E2204	E2370	K0020	

Table 122-0186-1: Ostomy Codes priced at 95.4% of 2010 Medicare Fee Schedule

Medicare codes		Non-Medicare codes (These are not subject to reduction)	
A4361	A4392	A4455	A4417
A4372	A4397	A4405	A4422
A4378	A5051	A4410	A4427
A4383	A5062	A4415	A4432
A4390	A5081	A4420	A5121
A4395	A4369	A4425	A4366
A4402	A4376	A4430	A4408
A5054	A4381	A5061	A4413
A5072	A4388	A4363	A4418
A4362	A4393	A4406	A4423
A4373	A4398	A4411	A4428
A4379	A5052	A4416	A4433
A4384	A5063	A4421	A5122
A4391	A5093	A4426	A4387
A4396	A4371	A4431	A4409
A4404	A4377	A5120	A4414
A5055	A4382	A4364	A4419
A5073	A4389	A4407	A4424
A4367	A4394	A4412	A4429
A4375	A4399		A4434
A4380	A5053		A5126
A4385	A5071		
	A4456		

Table 122-0186-2: Complex Rehabilitation/Wheelchair Codes priced at 90.5% of 2010 Medicare Fee Schedule.

E0950	E1234	E2328	E2392	K0046
E0951	E1235	E2329	E2394	K0047
E0952	E1236	E2330	E2395	K0050
E0955	E1237	E2340	E2396	K0051
E0956	E1238	E2341	E2601	K0052
E0957	E2201	E2342	E2602	K0053
E0958	E2202	E2343	E2603	K0056
E0960	E2203	E2351	E2604	K0065
E0966	E2204	E2360	E2605	K0069
E0967	E2206	E2361	E2606	K0070
E0973	E2209	E2362	E2607	K0071
E0974	E2210	E2363	E2608	K0072
E0978	E2211	E2364	E2611	K0073
E0981	E2212	E2365	E2612	K0077
E0982	E2213	E2366	E2613	K0098
E0992	E2214	E2368	E2614	K0733
E0995	E2215	E2369	E2615	K0739
E1002	E2219	E2370	E2616	K0848
E1003	E2221	E2371	E2619	K0849
E1004	E2222	E2373	E2620	K0850
E1005	E2224	E2374	E2621	K0851
E1006	E2225	E2375	K0005	K0852
E1007	E2226	E2376	K0007	K0853
E1008	E2231	E2377	K0015	K0854
E1010	E2310	E2381	K0017	K0855
E1014	E2311	E2382	K0018	K0856
E1015	E2312	E2383	K0020	K0857
E1016	E2313	E2384	K0037	K0858
E1020	E2321	E2385	K0038	K0859
E1028	E2322	E2386	K0039	K0860
E1029	E2323	E2387	K0040	K0861
E1030	E2324	E2388	K0041	K0862
E1161	E2325	E2389	K0043	K0863
E1232	E2326	E2390	K0044	K0864
E1233	E2327	E2391	K0045	

Coversheet for Rule Review

Date of Request: 12/2/2015

Submitted by: Kelly Jamison, Policy Analyst
Return to Rules Coordinator by: 12/7/2015

Rule Numbers: OAR 410-122-0186
Caption: Update Tables and Rule Language
Proposed Effective Date: 2/1/2016

Expedited Review:
Expedited review can be requested under the following circumstances:

☐ This is a Notice resulting from a Temp rule, and there are no additional changes from the Temp filing.

☐ This is housekeeping change (no substantive changes) and changes are flagged with post-it flags.

☐ This is a single change/amendment in rule language. The single change is flagged with a post-it flag, and no other changes are being made.

☐ This is a Temp rule / Notice of Rule Filing / Repeal.

Normal Review – Permanent Rule Process:
Normal review process takes up to a week to complete. Analyst must complete a 2-4 sentence summary of change/amendments being made and reason for change:

Reason:
Replacing tables that were not changed correctly on the Secretary of State website the last time the rule text was amended. Making unsubstantive changes to rule text.

Manager Approval: **(Managers' signature indicates approval)**

Don Ross: _____ Date: _____

: _____ Date: _____

: _____ Date: _____

☐ Not approved for the following reasons:

☐ Statement of Need and Filing documents reviewed

Manager approval signature or an attached email indicating manager approval is required.
This filing receives final review by **Rhonda Busek** and/or **David Simnitt** only after this form is complete.
This final review and signature requires up to a week in normal review circumstances.