



Ohio Administrative Code

Rule 5160:1-1-03 Medicaid: restrictions on payment for services.

Effective: November 1, 2023

(A) Medicaid will not pay for services provided under the conditions set out in paragraph (C) of this rule, even when an individual has been found eligible for a medical assistance category and is enrolled in medicaid.

(B) Definitions.

(1) "Inmate" means an individual who is serving time for a criminal offense or who is confined in a state or federal prison, jail, detention facility, or other penal facility.

(2) "Inmate of a public institution" means an individual who is living in a public institution as defined in rule 5160:1-1-01 of the Administrative Code.

(a) An individual who is residing in a public institution awaiting criminal proceedings, penal dispositions, or other detainment determinations is considered an inmate. The duration of time that an individual is residing in the public institution awaiting these arrangements does not determine inmate status.

(b) An individual is not considered an inmate when:

(i) Residing in a public educational or vocational training institution for purposes of securing education or vocational training; or

(ii) Residing in a public institution for a temporary period pending other living arrangements appropriate to his or her needs; or

(iii) Residing in a detention center, jail, or county penal facility after his or her case has been adjudicated and other living arrangements are being decided; or



- (iv) On parole or probation and living in the community; or
 - (v) Serving the remainder of the criminal sentence in a halfway house licensed as such by the Ohio department of rehabilitation and correction (DRC), in accordance with section 2967.14 of the Revised Code, which allows for freedom of movement and association as determined by the Ohio department of medicaid (ODM) or its designee.
- (3) "Inpatient" means a patient who has been admitted to a medical institution as an inpatient on recommendation of a physician or dentist and who:
- (a) Receives room, board, and medical services in the institution for a twenty-four hour period or longer; or
 - (b) Is expected by the institution to receive room, board, and medical services in the institution for a twenty-four-hour period or longer even though it later develops that the patient dies, is discharged, or is transferred to another facility and does not actually stay in the institution for twenty-four hours.
- (4) "Intermediate care facility for individuals with intellectual disabilities" (ICF-IID) is defined in Chapter 5160-3 of the Administrative Code.
- (5) "Medical institution" means an institution that:
- (a) Is organized to provide medical care, including nursing and convalescent care; and
 - (b) Has the necessary professional personnel, equipment, and facilities to manage the medical, nursing, and other health needs of patients on a continuing basis in accordance with accepted standards; and
 - (c) Is authorized under state law to provide medical care; and
 - (d) Is staffed by professional personnel who are responsible to the institution for professional medical and nursing services. The services must include:



- (i) Adequate and continual medical care and supervision by a physician; and
 - (ii) Registered nurse or licensed practical nurse supervision and services and nurses' aid services, sufficient to meet nursing care needs; and
 - (iii) A physician's guidance regarding the professional aspects of operating the institution.
- (6) "Outpatient" means a patient of an organized medical facility or distinct part of that facility who is expected by the facility to receive, and who does receive, professional services for less than a twenty-four-hour period regardless of the hour of admission, whether or not a bed is used, and whether or not the patient remains in the facility past midnight.
- (7) "Patient" means an individual who is receiving needed professional services that are directed by a licensed practitioner of the healing arts toward maintenance, improvement, or protection of health, or lessening of illness, disability, or pain.
- (C) As required by 42 C.F.R. 435.1009 (as in effect October 1, 2023), medicaid will not pay for services provided to:
- (1) An individual who is an inmate of a public institution, except as outlined in paragraph (D) of this rule; or
 - (2) An individual who is a patient in an institution for mental diseases (IMD), as defined in rule 5160:1-1-01 of the Administrative Code, who is age twenty-two or older, but under age sixty-five, except:
 - (a) As permitted in 42 C.F.R. 438.6(e) (as in effect October 1, 2023); or
 - (b) As permitted under a demonstration waiver approved by the centers for medicare and medicaid services (CMS) under section 1115 of the Social Security Act (as in effect October 1, 2023).
- (D) An exception to the prohibition against medicaid payment for services is permitted during the part of the month in which an individual is not an inmate of a public institution.



- (1) An individual is not an inmate of a public institution during such time as the individual is admitted as an inpatient in a hospital, nursing facility, juvenile psychiatric facility, or ICF-IID.
- (2) There is no time limit on medicaid payment for services as long as the individual continues to be eligible for medicaid and is receiving services as an inpatient in the medical facility.
- (3) An inmate is not considered a patient in a medical institution when:
 - (a) Services are provided on an outpatient basis at a hospital, nursing facility, juvenile psychiatric facility, ICF-IID, clinic, or physician office; or
 - (b) Medical care is provided to an inmate in a prison hospital or dispensary.
- (E) An individual on conditional release or convalescent leave from an IMD is not considered to be a patient in that institution.
 - (1) An individual on conditional release is an individual who is on definite leave from the institution, but who is not discharged.
 - (2) An individual who is released from the institution on the condition that the individual receives outpatient treatment or on other comparable conditions is on conditional release.
 - (3) An individual who is sent home or to another setting for a trial visit is on convalescent leave.
- (F) In accordance with the Substance Use-Disorder Prevention that Promotes Opioid Recovery and Treatment (SUPPORT) for Patients and Communities Act (Pub. L. No. 115-271), medical assistance for the following individuals will be suspended, not discontinued, when the individual becomes an inmate of a public institution on or after October 24, 2019. Prior to the individual's release from the public institution a redetermination of eligibility will be processed without a new application from the individual.
 - (1) Individuals under the age of twenty-one; or



(2) Former foster care children up to the age of twenty-six as described in 42 C.F.R. 435.150(b) (as in effect October 1, 2023).