



# Department of Medicaid

John R. Kasich, Governor  
Barbara R. Sears, Director

## Medicaid Advisory Letter (MAL) No. 621

DATE: July 1, 2018

TO: Eligible Medicaid Providers of Federally Qualified Health Centers (FQHCs)  
and Rural Health Clinics (RHCs)  
Chief Executive Officers, Managed Care Plans  
Other Interested Parties

FROM: Barbara R. Sears, Medicaid Director

SUBJECT: **Prohibition of Commingling in FQHCs and RHCs**

This MAL is intended for FQHC and RHC providers who are dually enrolled as another provider type and are submitting claims to the Ohio Department of Medicaid (ODM) and to Medicaid managed care plans.

ODM is providing this clarification in response to recent questions regarding whether FQHC and RHC providers who are dually enrolled as another provider type may submit claims for FQHC and RHC services as a provider type other than an FQHC or RHC. ODM follows Medicare's policy on the prohibition of commingling by FQHC and RHC providers as set forth in, "Medicare Benefit Policy Manual," Chapter 13 - Rural Health Clinic (RHC) and Federally Qualified Health Center (FQHC) Services", which is posted on CMS's website at: <https://www.cms.gov/Regulations-and-Guidance/Guidance/Manuals/Internet-Only-Manuals-IOMs-Items/CMS012673.html?DLPage=1&DLEntries=10&DLSort=0&DLSortDir=ascending>.

Commingling refers to the sharing of FQHC or RHC space, staff (employed or contracted), supplies, equipment, and/or other resources with another onsite provider operated by the same FQHC or RHC. Commingling is prohibited in order to prevent: (1) duplicate Medicaid payment; or (2) selectively choosing a higher or lower payment amount for services.

RHC and FQHC practitioners may not render or separately submit claims for FQHC or RHC-covered services as another type of provider in the FQHC or RHC, or in an area outside of the certified FQHC or RHC space such as a treatment room adjacent to the FQHC or RHC, during FQHC or RHC hours of operation. If an FQHC or RHC practitioner furnishes an FQHC or RHC service at the FQHC or RHC during FQHC or RHC hours, the service must be billed as an FQHC or RHC service. The service cannot be carved out of the cost report and billed under another provider type. Claims should be based upon the physical location where the service was provided.

FQHC and RHC providers may only submit claims for non-FQHC and RHC services if the service cannot be claimed as an FQHC or RHC service. As set forth in paragraph (B) of

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Ohio Administrative Code (OAC) rule 5160-28-03.1, "An FQHC may be required to enroll separately in Medicaid as another type of provider and to use a non-FQHC Medicaid provider number in order to receive separate payment for a service or supply that cannot be claimed as an FQHC service under paragraph (A) of this rule." Paragraph (B) of OAC rule 5160-28-03.3 reads, "An RHC may be required to enroll separately in Medicaid as another type of provider and to use a non-RHC Medicaid provider number in order to receive separate payment for a service or supply that cannot be claimed as an RHC service under paragraph (A) of this rule."

If an FQHC or RHC is located in the same building with another entity such as an unaffiliated medical practice, behavioral health provider, x-ray and lab facility, dental clinic, etc., the FQHC or RHC space must be clearly defined. If the FQHC or RHC leases space to another entity, all costs associated with the leased space must be carved out of the cost report.

FQHCs and RHCs that share resources (e.g., waiting room, telephones, receptionists) with another entity must maintain accurate records to assure that all costs claimed for Medicaid payment are only for the FQHC or RHC staff, space, or other resources. Any shared staff, space, or other resources must be allocated appropriately between FQHC or RHC and non-RHC or non-FQHC usage to avoid duplicate payment. ODM has the authority to determine acceptable accounting methods for allocation of costs between the FQHC or RHC and another entity.

### **Additional Information**

Information about the services and programs of the Ohio Department of Medicaid may be accessed through the main webpage at <http://www.medicaid.ohio.gov>.

### **Questions**

Questions pertaining to this MAL may be directed to the Ohio Department of Medicaid.

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