

APA-6
10/96

**ECONOMIC IMPACT STATEMENT
FOR APA RULE
(Section 41-22-23(f))**

Control No. 810 Department or Agency REVENUE

Rule No: 810-6-3-.37.03

Rule Title: Medicaid

 New X Amend Repeal Adopt by Reference

- NO
 YES

This rule has no economic impact.

This rule has an economic impact, as explained below:

1. NEED/EXPECTED BENEFIT OF RULE:

2. COSTS/BENEFITS OF RULE AND WHY RULE IS THE MOST EFFECTIVE, EFFICIENT, AND FEASIBLE MEANS FOR ALLOCATING RESOURCES AND ACHIEVING THE STATED PURPOSE:

3. EFFECT OF THIS RULE ON COMPETITION:

4. EFFECT OF THIS RULE ON COST OF LIVING AND DOING BUSINESS IN THE GEOGRAPHICAL AREA WHERE THE RULE IS TO BE IMPLEMENTED:

5. EFFECT OF THIS RULE ON EMPLOYMENT IN THE GEOGRAPHICAL AREA HERE THE RULE IS TO BE IMPLEMENTED:

6. SOURCE OF REVENUE TO BE USED FOR IMPLEMENTING AND ENFORCING THIS RULE:

7. THE SHORT-TERM/LONG-TERM ECONOMIC IMPACT OF THIS RULE ON AFFECTED PERSONS, INCLUDING ANALYSIS OF PERSONS WHO WILL BEAR THE COSTS AND THOSE WHO WILL BENEFIT FROM THE RULE:

8. UNCERTAINTIES ASSOCIATED WITH THE ESTIMATED BENEFITS AND

**BURDENS OF THE RULE, INCLUDING QUALITATIVE/QUANTITATIVE
BENEFITS AND BURDEN COMPARISON:**

9. **THE EFFECT OF THIS RULE ON THE ENVIRONMENT AND PUBLIC
HEALTH:**

10. **DETRIMENTAL EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH
IF THE RULE IS NOT IMPLEMENTED:**

11. **OTHER COMMENTS:**

APA-2
11/96

ALABAMA DEPARTMENT OF REVENUE
Sales & Use Tax Division

NOTICE OF INTENDED ACTION

RULE NO. & TITLE

810-6-5-.09 Leasing and Rental of Tangible Personal Property

INTENDED ACTION: Amend above rule

SUBSTANCE OF PROPOSED ACTION: The department proposes to amend the above rule to comply with the provisions of Act 2014-453. Act 2014-453 amended Section 40-9-30, Code of Alabama 1975 to make durable medical equipment, prosthetics and orthotics, and medical supplies as defined under the Medicare program exempt from state and local sales, use and rental tax; therefore, this amendment is necessary to reflect recent statute changes.

RULE NO. & TITLE

810-6-5-.29 Oxygen and Durable Medical Equipment Dispensed to Medicare Recipients by Participating Providers

INTENDED ACTION: Amend above rule

SUBSTANCE OF PROPOSED ACTION: The department proposes to amend the above rule to comply with the provisions of Act 2014-453. Act 2014-453 amended Section 40-9-30, Code of Alabama 1975 to include rental and leasing tax in the exemption for durable medical equipment. It also expanded the exemption to cover prosthetic and orthotic devices, and medical supplies as defined and covered under the Medicare program; therefore, this amendment is necessary to reflect recent statute changes.

RULE NO. & TITLE

810-6-3-37.03 Medicaid

INTENDED ACTION: Amend above rule

SUBSTANCE OF PROPOSED ACTION: The department proposes to amend the above rule to comply with the provisions of Act 2014-453. Act 2014-453 amended Section 40-9-30, Code

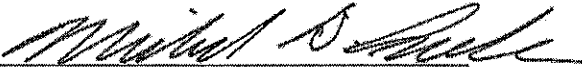
of Alabama 1975 and expanded the durable medical exemption to include rental tax. In addition, the department proposes to amend the title of the rule.

TIME, PLACE, MANNER OF PRESENTING VIEWS: A public hearing will be held at 2:00 p.m. on Wednesday, October 8, 2014, Room 1203, First Floor, Gordon Persons Building, located at 50 N Ripley Street, Montgomery, Alabama. Copies of the rule(s) can be obtained at ww.revenue.alabama.gov/rulehear.html.

All interested parties may present their views in writing to the Secretary of the Alabama Department of Revenue, Room 4131, Gordon Persons Building, 50 N Ripley Street, Montgomery, Alabama 36132 at any time during the thirty-five (35) day period following publication of the notice or by appearing at the hearing.

FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE:
Wednesday, October 8, 2014

CONTACT PERSON AT AGENCY:
Patricia Toles
Alabama Department of Revenue
4131 Gordon Persons Building
Montgomery, Alabama 36132
(334) 242-1380


Michael D. Gamble, Secretary
Alabama Department of Revenue

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810-6-3-.37.03 Exemption for Certain Items Furnished to Medicaid Recipients.

(1) ~~Sales of e~~Eyeglasses and, durable medical equipment, prosthetic and orthotic devices, and medical supplies as defined and covered under the Medicare program furnished to Medicaid recipients are exempt from sales ~~or use, or rental and leasing~~ tax when billed directly to and paid for directly by Medicaid. Such sales are sales to the State of Alabama and are specifically exempt from tax pursuant to Sections 40-23-4(a)(11) and 40-23-62(13), Code of Alabama 1975. Payment for these items may be as the result of a contract between Medicaid and a manufacturer who provides the item, bills Medicaid directly under the terms of the contract, and receives payment directly from Medicaid; or, payment may be as the result of contracts with various suppliers, such as home health providers, who furnish the item, bill Medicaid directly pursuant to the terms established by the Medicaid program, and receive payment directly from Medicaid. In both instances payment is made directly by Medicaid; the Medicaid recipient does not make payment and then receive reimbursement from Medicaid. (Sections 40-23-4-(a)(11) and 40-23-62(13))

(2) The sales and use tax exemption outlined in Section (1) above does not apply in instances where an item is sold directly to and paid for by a Medicaid recipient. Should the nature of the present Medicaid program change, the sales and use tax exemption outlined in Section (1) would not apply to eyeglasses or durable medical equipment purchased and paid for by a Medicaid recipient who later receives reimbursement from Medicaid nor would the exemption apply with respect to that portion of a co-pay purchase paid for directly by the Medicaid recipient. (Sections 40-23-2 and 40-23-61)

(3) Drugs as defined in Section 40-23-4.1(a), Code of Alabama 1975, are specifically exempt from sales and use tax; and, sales thereof to Medicaid recipients are exempt regardless of who is billed for the drugs or who makes payment for said drugs.

(4) Hospitals and nursing homes purchasing tangible personal property for use in furnishing services to Medicaid recipients are not exempt from sales or use tax. Hospitals and nursing homes are primarily engaged in the business of rendering services. They are not liable for sales tax with respect to their gross receipts for meals, drugs, or other tangible personal property used in rendering hospital or nursing home services. Hospitals and nursing homes are deemed to be the purchasers for use or consumption of such tangible personal property, and the sellers of these items to hospitals and nursing homes are required to collect the sales or use tax on sales of such property to private hospitals and nursing homes. Provided, however, purchases by private hospitals and nursing homes of drugs as defined in Section 40-23-4.1(a), Code of Alabama 1975, are specifically exempt from sales and use tax. Prescription drugs sold separate and apart from services rendered by a hospital or nursing home are also exempt from sales and use tax pursuant to Section 40-23-4.1, Code of Alabama 1975. See Sales and Use Tax Rules 810-6-3-.47.01 entitled Prescription Drugs, and 810-6-5-.09 entitled Leasing and Rental of Tangible Personal Property.

Author: Ginger Buchanan Dan DeVaughn, Sales and Use Tax Division
Authority: Sections 40-2A-7(a)(5), 40-23-31 and 40-23-83, Code of Alabama 1975
History: Adopted March 18, 1970.
Amended November 9, 1970.
Amended September 20, 1974.
Amended: Filed December 22, 1989, effective January 29, 1990.
Readopted through APA effective October 1, 1982.