

Economic Impact Statement

LSA Document #08-325

IC 4-22-2.1-5 Statement Concerning Rules Affecting Small Businesses

This rule will not have an impact on small businesses, as defined in [IC 4-22-2.1-4](#), except perhaps as follows:

- (1) To the extent that insurance companies or other entities offer annuities, the business is already being regulated by federal law under the deficit reduction act and this rule is mirroring the requirements of federal law. This rule also expands the definition of annuities, which will not directly impact the way any Indiana small business is performed, but may limit Medicaid applicant's enthusiasm for entering into such business relationships due to the impact it could potentially have on the applicants receipt of benefits.
- (2) The rule outlines the requirements a personal services agreement must follow. These agreements may be entered into between the recipient and family members, so to the extent any recipient's family member could provide service as a sole proprietorship.

The following section provides responses to the following questions outlined in [IC 4-22-2.1-5](#):

1. An estimate of the number of small businesses, classified by industry section that will be subject to the proposed rule.

According to figures obtained from the Department of Insurance, there are 37 domestic life insurance companies that issue annuities, and, of these, three may be small businesses. The agency is unaware of any not-for-profit that would qualify as a small business that has offered to sell annuity products to Medicaid recipients. It is estimated that there are two small businesses that may be affected by the expansion of the definition of an annuity. This is based on information gleaned from agency Medicaid resource determination reviews. Family members that provide personal services may be considered small businesses in that they could be deemed by IEDC as sole proprietorships. Based on review of personal service agreements that are received and reviewed by the central office, it is estimated that there may be 50 such agreements executed statewide. However, this is only an estimate. Generally, personal services agreements are disfavored as a mechanism for transferring assets to family members of applicants. A clarification of state policy may actually help family members of applicants better understand how they can enter into personal services agreements without negatively affecting an applicant's change at gaining Medicaid eligibility.

2. An estimate of the average annual reporting, record keeping, and other administrative costs that small business will incur to comply with the proposed rule.

Minimal to none. For example, the personal services agreement rule will require such agreements to be in writing and the provider of services will need to report this income to the IRS and state department of revenue. These are likely not new steps undertaken by individuals entering into these contracts, but the agency is now expressly requiring these steps.

3. An estimate of the total annual economic impact that compliance will have on small businesses subject to the rule.

Unknowable, but likely minimal to none.

4. A statement justifying any requirement or cost that is imposed by the rule and not expressly required by law. The statement must reference any data, studies, or analyses relied upon by the agency in determining imposition of the requirement or cost is necessary.

Any requirement under this rule not expressly required under federal law is being promulgated to clarify the agency's position of what constitutes a proper transfer of property.

5. Any regulatory flexibility analysis that considers any less intrusive or less costly alternative methods of achieving the same purpose.

None.

Posted: 08/27/2008 by Legislative Services Agency

An [html](#) version of this document.