

Economic Impact Statement

LSA Document #09-1

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

[410 IAC 3.2](#) is the administrative rule for the Children's Special Health Care Services (CSHCS) Program. The rule sets out definitions, information about applying to the program, financial and medical eligibility criteria, approved providers, and payment of services.

The proposed rule adds definition for autism to [410 IAC 3.2-1](#), which clarifies and restricts autism to the diagnosis of 299.00. The rule also adds autism to the list of medically eligible conditions in [410 IAC 3.2-6-2\(b\)](#). Additionally, the rule changes the definition of therapy found in [410 IAC 3.2-1-33](#) to limit payment for applied behavioral analysis (ABA) for treatment of autism to a maximum payment of \$10,000 per participant per year. [410 IAC 3.2-9-1](#) regarding payments for family travel is also being amended so that the first 49 miles are never paid, and once a child or family has traveled 50 miles per trip, travel is paid at the rate of 50% of the travel reimbursement rate that is established in accordance with state travel policies. These last two amendments are necessary due to the constraints on funding for this program. Continued reductions in the available funding at the state level requires the program to propose this rule change to maintain the broadest positive outcomes for Indiana children.

Economic Impact on Small Business**(1) Estimate of the number of small businesses, classified by industry sector, that will be subject to the proposed rule.**

[IC 4-22-2.1-4](#) defines a small business as any person, firm, corporation limited liability company, partnership, or association that:

- (1) is actively engaged in business in Indiana and maintains its principal place of business in Indiana;
- (2) is independently owned and operated;
- (3) employs one hundred (100) or fewer full time employees; and
- (4) has gross annual receipts of five million dollars (\$5,000,000) or less.

The impact to small businesses would be minor. The proposed rule would only affect small businesses with regard to the change proposed to the coverage of ABA therapy, as autism is currently a covered eligible condition (mandated by statute, in [IC 16-35-2-10](#)) and the proposed rule change is intended only to update the rule by adding autism to the list of covered medical conditions. The proposed changes to family travel will not affect the physicians or small business owners as defined by [IC 4-22-2.1-4](#) and will only affect participants and their families.

There are some therapy groups (less than 10 currently) that are enrolled as providers in the CSHCS program. Although the administrative procedures that should be followed to obtain payment for ABA therapy for treatment of autism will not change, there will now be a yearly maximum applied to payments. If the program does not cover all services utilized, it can be projected that some participants may elect to stop therapy sessions past their covered amount. In this sense then, providers may lose clients. It is impossible to estimate that corresponding economic loss.

(2) Estimate of the average annual reporting, record keeping, and other administrative costs that small businesses will incur to comply with the proposed rule.

The reimbursement change for coverage of ABA therapy will not impact administrative costs, reporting, or bookkeeping for the small business providers that render this service. The requirements for prior authorization and claims processing remain unchanged.

(3) Estimate of the total annual economic impact that compliance with the proposed rule will have on all small businesses subject to the rule.

In the case of ABA therapy, the service would remain available and would be payable at the same rate per hour. However, now there would be an annual payment maximum. There should be no current economic impact as this service has not yet been billed or reimbursed to the CSHCS Program in quantities over \$10,000 per participant.

(4) Statement justifying any requirement or cost that is imposed on small businesses by the rule and not expressly required by the statute authorizing the agency to adopt the rule or any other state or federal law.

Again, any economic impact is only a projected economic impact as currently the program does not pay close to \$10,000 per participant for coverage of ABA therapy. Thus, there are no costs imposed on small

businesses due to this rule change.

In fiscal year July 1, 2007-June 30, 2008 the CSHCS program paid a total of \$13,219.29 for applied behavioral analysis (ABA) therapy for approximately 18 participants. In the current fiscal year July 1, 2008-September 25, 2008 (less than a 3-month period), the program has paid \$18,150.67 for nearly the same number of participants. It is anticipated this expense will increase. Although the program has not yet had to pay over \$10,000 per participant, it is expected that claim expenses per participant, as well as the number of participants receiving ABA therapy, will increase as this type of therapy continues to receive support from the medical community. Given that our budget appropriation for SFY's 2010 and 2011 will be reduced from current levels, the CSHCS program is proposing a payment maximum be applied for ABA therapy.

(5) Regulatory Flexibility Analysis

Other factors considered:

- (A) Establishment of less stringent compliance or reporting requirement for small businesses.
- (B) Establishment of less stringent schedules or deadlines for compliance or reporting requirement for small businesses.
- (C) Consideration or simplification of compliance or report requirements for small businesses.
- (D) Establishment of performance standards for small businesses instead of design or operational standards imposed on other regulated entities by the rule.
- (E) Exemption of small businesses from part or all of the requirement or costs imposed.

For all the above:

This is not applicable because the rule does not impose compliance or reporting requirements for small businesses.

Submitted by,

Kate Bowen, Director
Children's Special Health Care Services
Indiana State Department of Health
2 North Meridian Street, 7-B
Indianapolis, Indiana 46204
(317) 234-3113

Posted: 06/03/2009 by Legislative Services Agency
An [html](#) version of this document.