

Economic Impact Statement

LSA Document #16-327

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

The Indiana Family and Social Services Administration (FSSA) Office of Medicaid Policy and Planning (OMPP) proposes to make the following changes:

1. Amend [405 IAC 1-12-1](#) to clarify policy language regarding payment for services rendered by intermediate care facilities for individuals with intellectual disabilities (ICFs/IID) and community residential facilities for the developmentally disabled (CRFs/DD).
2. Amend [405 IAC 1-12-2](#) to add a definition for "department head" and update the definition of "generally accepted accounting principles".
3. Amend [405 IAC 1-12-3](#) to clarify provider responsibility to substantiate that provider costs are related to patient care.
4. Amend [405 IAC 1-12-4](#) to clarify the penalty for untimely cost report filings.
5. Amend [405 IAC 1-12-5](#) to add a penalty for untimely filing of the Checklist of Management Representations.
6. Amend [405 IAC 1-12-7](#) to clarify the criteria for excluding a provider from the average allowable cost of the median patient day computations.
7. Amend [405 IAC 1-12-19](#) to update language.
8. Amend [405 IAC 1-12-20](#) to update language.
9. Amend [405 IAC 1-12-21](#) to revise the reimbursement rate for Comprehensive Rehabilitative Management Needs Facilities (CRMNF) to \$639.18.
10. Amend [405 IAC 1-12-27](#) to remove the reimbursement rate reduction of this section in compliance with SECTIONS 9 and 10 of SEA 11 (2016).
11. Repeal [405 IAC 1-14.5](#) as obsolete.
12. Amend [405 IAC 1-14.6-1](#) to clarify policy language regarding payment for services rendered to members by nursing facilities.
13. Amend [405 IAC 1-14.6-2](#) to update definitions to reflect the change from the Resource Utilization Group, version III (RUG-III), to RUG-IV, update the Minimum Data Set resident assessment (MDS), version 2.0 to MDS version 3.0, and to clarify and add several definitions.
14. Amend [405 IAC 1-14.6-3](#) to clarify the information required on the Medicaid cost report form, to require financial records or supporting documentation to be made available to the office, add penalty for failure to submit requested information, and to clarify compliance review scheduling procedures, and clarify provider responsibility to substantiate that their costs are related to patient care.
15. Amend [405 IAC 1-14.6-4](#) to clarify the information required by providers with their annual cost report submission, and to make other changes as a result of the change to RUG-IV.
16. Amend [405 IAC 1-14.6-6](#) to clarify the rate review process.
17. Amend [405 IAC 1-14.6-7](#) to add the Case Mix Index (CMI) table for RUG-IV and to make other changes as a result of the change to RUG-IV.
18. Amend [405 IAC 1-14.6-9](#) to clarify the calendar quarters utilized in determining a facility's CMI.
19. Amend [405 IAC 1-14.6-10](#) to clarify certain costs as not allowable.
20. Amend [405 IAC 1-14.6-11](#) to clarify the reporting of costs incurred by parties defined by the rule to be related to the Medicaid certified nursing facilities.
21. Amend [405 IAC 1-14.6-12](#) to clarify what costs are included in the fair rental value allowance.
22. Amend [405 IAC 1-14.6-21](#) to clarify that changes to the allocation of reported costs due to prior period audit findings are authorized by OMPP.
23. Amend [405 IAC 1-14.6-22](#) to clarify administrative reconsideration of a rate determination.
24. Amend [405 IAC 1-14.6-24](#) to clarify how the Quality Assessment Fee (QAF) is determined.
25. Amend [405 IAC 1-15-1](#) to clarify and update MDS electronic transmission requirements for nursing facilities.
26. Amend [405 IAC 1-15-2](#) to modify the Medicaid rule for the electronic transmission of the MDS to reflect the change from RUG-III to RUG-IV, and MDS 2.0 to MDS 3.0.
27. Repeal [405 IAC 1-15-3](#) as obsolete.
28. Amend [405 IAC 1-15-4](#) to clarify scope of review by OMPP of nursing facility MDS resident assessment data, and to reflect the change from RUG-III to RUG-IV.
29. Amend [405 IAC 1-15-5](#) to clarify scope of review of MDS resident assessments.
30. Repeal [405 IAC 1-15-6](#) as obsolete.

The OMPP was directed by the Indiana General Assembly (SEA 11, SECTIONS 9 and 10 (2016)) to remove the reimbursement rate reduction rule at [405 IAC 1-12-27](#) effective July 1, 2016.

Effective October 1, 2010, the Centers for Medicare and Medicaid Services (CMS) required both Medicare and Medicaid nursing facility providers to transition from completing the MDS 2.0 to the MDS 3.0 assessment instrument. At the same time, for purposes of determining Medicare reimbursement for skilled nursing services, CMS transitioned from using the Resource Utilization Group (RUG)-III to the RUG-IV resident classification model. CMS permitted state Medicaid programs to continue to use the RUG-III classification model or switch to RUG-IV. However, CMS designed the MDS 3.0 and RUG-IV to work together, and the changes between MDS 2.0 / RUG-III to MDS 3.0 / RUG-IV are significant. Therefore, to facilitate states' continued use of the RUG-III classification model, CMS developed a crosswalk between the MDS 3.0 and RUG-III.

Since the implementation of the MDS 3.0 assessment instrument and the RUG-IV classification model on October 1, 2010, CMS has continued to update and refine both the MDS 3.0 assessment instrument and the RUG classification model. CMS no longer intends to update the crosswalk between the MDS 3.0 and RUG-III, therefore making the RUG-III model less precise than the RUG-IV model in classifying resident resource needs.

Additionally, it is believed that CMS may at some future point no longer support the crosswalk between the MDS 3.0 and RUG-III. Transitioning Indiana's Medicaid nursing facility Medicaid reimbursement system to the RUG-IV model, for which the MDS 3.0 was designed, will provide a better tool for OMPP to ensure that Medicaid reimbursement is properly allocated according to resident resource needs.

Additionally, OMPP has taken this opportunity to clarify and update several other sections of the rule. These clarifications and updates are generally in response to questions or misunderstandings from Medicaid certified providers concerning existing Medicaid reimbursement policies. As such, these rule changes are intended to improve government processes and promote more efficient operation of the Medicaid program by reducing the frequency of provider administrative reconsideration requests and rate appeals.

Impact on Small Business

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 sector, that will be subject to the proposed rule.

[IC 5-28-2-6](#) defines a small business as a business entity that satisfies the following requirements:

- (1) On at least fifty percent (50%) of the working days of the business entity occurring during the preceding calendar year, the business entity employed not more than one hundred fifty (150) employees.
- (2) The majority of the employees of the business entity work in Indiana.

The OMPP estimates the number of businesses that are Medicaid certified and meet the criteria of a small business to be as follows:

- Nursing Facilities – 47 out of 522 Indiana providers
- Group Homes (CRFs/DD) - 205 out of 499 Indiana providers

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

The proposed rule amendment will not impose any additional annual reporting, record keeping, or other administrative costs on small businesses in order to comply with the proposed rule. This rule adjusts payment rates available to providers for certain services, clarifies existing Medicaid reimbursement and cost reporting policies, and does not place new requirements on the provider.

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

There is no economic impact that compliance will have on a small business subject to this rule, since no small businesses will incur any additional cost to comply with this rule.

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.

The proposed rule amendment will not impose any requirement or cost on small businesses in order to comply with the proposed rule.

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

Other factors considered:

A. Establishment of less stringent compliance or reporting requirements for small businesses.

The rule does not add any new reporting requirements for small businesses. Less stringent compliance or reporting requirements would not allow for the additional reimbursement implemented by the proposed rule.

B. Establishment of less stringent schedules or deadlines for compliance or reporting requirements for small businesses.

The rule has no impact on schedules or deadlines for compliance or reporting requirements for small businesses. Less stringent schedules or deadlines would not implement the additional reimbursement in the proposed rule.

C. Consolidation or simplification of compliance or reporting requirements for small businesses.

The rule has no impact on compliance or reporting requirements for small businesses. Consolidation or simplification of compliance reporting requirements would not implement the additional reimbursement in the proposed rule.

D. Establishment of performance standards for small businesses instead of design or operational standards imposed on other regulated entities by the rule.

The rule has no impact on performance or operational standards for small businesses. Establishing performance standards for small businesses would not allow for the additional reimbursement implemented by the proposed rule.

E. Exemption of small businesses from part or all of the requirements or costs imposed by the rule.

The rule imposes no additional requirements or cost on small businesses, so exempting small businesses from the proposed rule would not achieve the rule's purpose of implementing the additional reimbursement for providers.

If there are any programmatic or fiscal questions, please contact Chris Fletcher at (317) 234-4753 or at chris.fletcher@fssa.in.gov. Questions regarding any other aspect of the proposed changes should also be addressed to Leslie Huckleberry at (317) 232-1246 or at leslie.huckleberry@fssa.in.gov.

Posted: 05/24/2017 by Legislative Services Agency
An [html](#) version of this document.