

Economic Impact Statement

LSA Document #17-306

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:

- (1) Amend [405 IAC 5-5](#) to modify the regulatory barriers to out-of-state services in cases where this would prevent unnecessary hardship for the member. Areas would be designated as in-state in relation to prior authorization requirements and for purposes of reimbursement to increase access to medically necessary services in underserved areas or if transportation to an appropriate Indiana facility would cause undue expense or hardship to the member.
- (2) This rule will also remove the list provided under [405 IAC 5-5-1](#) because services are regulated throughout [405 IAC 1](#) and [405 IAC 5](#), thus the list is misleading. Moreover, benefits vary by Medicaid program and providers (in-state or out-of-state) should refer to those specific programs for coverage information. This rule is solely intended to grant authority for designating areas in-state for the purposes of reimbursement and prior authorization/utilization management; it does not pertain to coverage determinations. We are not restructuring or reducing benefits through this promulgation.

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.

By definition, this rule amendment does not impact small businesses in Indiana since its purpose is to expand access to providers in border areas (e.g., Louisville/Jeffersonville, Cincinnati/Lawrenceburg). This rule amendment gives the secretary authority to designate such areas as in-state when demand exceeds supply and an out-of-state provider is closer to the Medicaid member.

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 amendment modifies how Medicaid designates an area as in-state in relation to the prior authorization requirements and reimbursement, but it does not place new requirements on small businesses since providers will be utilizing existing processes to implement these amendments.

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 because small businesses will not incur any additional cost to comply with this rule. The proposed rule amendment would allow Medicaid to designate an area as in-state for prior authorization and reimbursement purposes, utilizing existing processes to implement these amendments.

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 modifies how areas are designated as in-state for prior authorization and reimbursement, and may result in a change in Medicaid reimbursement to small businesses as Medicaid members may receive more services from out-of-state providers. However, the rule 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 further reduce the regulatory barriers to out-of-state services.

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 changes in the proposed rule.

Reducing the regulatory burden the current prior authorization requirements pose to most members' use of out-of-state services would not be accomplished by developing different requirements for different size regulated entities because the current restrictions in rules apply to regulated entities of all sizes, and the reduced burden that would take place under this rule amendment would also need to apply to regulated entities of all sizes in order to provide uniform standards to out-of-state providers.

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 changes in the proposed rule. The proposed rule amendment would allow Medicaid to designate an area as in-state for prior authorization and reimbursement purposes, utilizing existing processes to implement these amendments.

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

Reducing the regulatory burden the current prior authorization requirements pose to most members' use of out-of-state services would not be accomplished by additional performance standards expressing requirements in terms of desired outcomes; presently, the rule imposes certain restrictions that must be lifted through rule promulgation in order to reduce the regulatory burdens under this rule.

This could not be accomplished by using performance standards.

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 reducing the regulatory barriers to out-of-state services. The proposed rule amendment would allow Medicaid to designate an area as in-state for prior authorization and reimbursement purposes, utilizing existing processes to implement these amendments so that no new costs are required.

If there are any programmatic or fiscal questions, please contact Jeffrey Chapman at (317) 232-4348 or at jeffrey.chapman@fssa.in.gov. Questions regarding any other aspect of the proposed changes should also be addressed to Jeremy Hoffman at (317) 234-6579 or at jeremy.hoffman@fssa.in.gov.

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