

**Economic Impact Statement**  
LSA Document #17-342

**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 1-4.2-2](#) to clarify policy language regarding a member's place of residence and to clarify that home health services cannot be limited to services furnished to members who are homebound.
- (2) Amend [405 IAC 5-16-2](#) to add the requirement for documentation of a face-to-face encounter for home health services in accordance with 42 CFR 440.70(f).
- (3) Amend [405 IAC 5-16-3](#) to add the requirement for therapy services to be ordered in writing in accordance with [405 IAC 5-22-6\(b\)\(1\)](#).
- (4) Amend [405 IAC 5-16-3.1](#) to clarify therapy services must be ordered or prescribed in writing by a provider in accordance with [405 IAC 5-22-6\(b\)\(1\)](#), and to add that home health services are reimbursable only if the treating physician certifying the need for home health services documents that a face-to-face encounter with the individual occurred.

**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:

- Home Health Agencies – 14 out of 233 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 implements Section 6407 of the Affordable Care Act (ACA) of 2010 that adds the requirement that physicians document the occurrence of a face-to-face encounter when ordering HHA services. CMS has published a final rule (81 FR 5530) that incorporates these changes into 42 CFR 440.70. This rule 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. This rule implements Section 6407 of the Affordable Care Act (ACA) of 2010 that adds the requirement that physicians document the occurrence of a face-to-face encounter when ordering HHA services. CMS has published a final rule (81 FR 5530) that incorporates these changes into 42 CFR 440.70. This rule does not place new requirements on the provider.

**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. This rule implements Section 6407 of the Affordable Care Act (ACA) of 2010 that adds the requirement that physicians document the occurrence of a face-to-face encounter when ordering HHA

services. CMS has published a final rule (81 FR 5530) that incorporates these changes into 42 CFR 440.70.

**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. This rule implements Section 6407 of the Affordable Care Act (ACA) of 2010 that adds the requirement that physicians document the occurrence of a face-to-face encounter when ordering HHA services. CMS has published a final rule (81 FR 5530) that incorporates these changes into 42 CFR 440.70.

**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. This rule implements Section 6407 of the Affordable Care Act (ACA) of 2010 that adds the requirement that physicians document the occurrence of a face-to-face encounter when ordering HHA services. CMS has published a final rule (81 FR 5530) that incorporates these changes into 42 CFR 440.70.

**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. Since this rule implements federal statutory requirement to HHA providers participating in the Medicaid program, FSSA cannot exempt small businesses from the requirements.

If there are any programmatic or fiscal questions, please contact Chris Fletcher at (317) 234-4753 or at [chris.fletcher@fssa.in.gov](mailto:chris.fletcher@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](mailto:jeremy.hoffman@fssa.in.gov).

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