

## Economic Impact Statement

LSA Document #18-125

**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 5-3-5](#) to remove the requirement for rehabilitative potential for wheelchairs for child recipients in a nursing facility in accordance with [IC 12-15-5-12](#).
- (2) Amend [405 IAC 5-19-1](#) to update and clarify definitions and terminology.
- (3) Amend [405 IAC 5-19-2](#) to update and clarify definitions and terminology.
- (4) Add [405 IAC 5-19-2.5](#) to implement the requirement for documentation of a face-to-face encounter for home health DME items in accordance with 42 CFR 440.70(f).
- (5) Amend [405 IAC 5-19-7](#) to revise state regulations for prior authorization to implement the requirement for documentation of a face-to-face encounter for home health DME items in accordance with 42 CFR 440.70(f) and to remove the requirement for rehabilitative potential for wheelchairs for child recipients in a nursing facility in accordance with [IC 12-15-5-12](#).
- (6) Amend [405 IAC 5-19-13](#) to update and clarify definitions and terminology.
- (7) Amend [405 IAC 5-19-18](#) to comply with court order requiring coverage of orthotics regardless of age.
- (8) Amend [405 IAC 5-26-5](#) to comply with court order requiring coverage of orthotics regardless of age.
- (9) Amend [405 IAC 5-26-6](#) to comply with court order requiring coverage of orthotics regardless of age.

**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 that out of a total of 3,100 Medicaid-enrolled providers in Indiana that are impacted by these changes, there are 1,712 providers that may meet the criteria of a small business. Impacted providers are children's nursing facilities, home health agencies, and suppliers of DME, hearing aids, and orthotics.

**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 brings the rule into compliance with state law, federal law and regulations, and court order and does not impose any additional annual reporting, record keeping, or other administrative costs on small businesses in order to comply with the proposed rule. Providers are already required to certify the members need for DME and provide documentation of such pursuant to [405 IAC 1-5-1](#). Additionally, the Medicaid Provider Agreement requires every provider to comply with all applicable state and federal laws and regulations.

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

The proposed rule amendment brings the rule into compliance with state law, federal law and regulations, and court order. No economic impact is expected following the implementation of this rule since small businesses already enrolled in the Medicaid program will already be complying with the federal changes and therefore will not incur any additional cost to comply with this rule after its promulgation. The OMPP estimates the total fiscal impact pertaining to the removal of the requirement for rehabilitative potential for wheelchairs for child recipients in a nursing facility to be \$33,000 in SFY 2018 and \$39,000 in SFY 2019. There is no anticipated fiscal impact associated with the other changes.

**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 brings the rule into compliance with state law, federal law and regulations, and court order. The proposed rule amendment will not impose any requirement or cost on small businesses that is not required by law 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 imposes no new reporting requirements for small businesses so different standards of reporting would not result in a less intrusive method.

**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.

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

The rule imposes no new compliance or reporting requirements for small businesses. All providers enrolled in the Medicaid program should already be meeting the standards set out in federal law pursuant to their provider agreement.

**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.

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

The rule imposes no new requirements or cost on small businesses. All providers enrolled in the Medicaid program should already be meeting the standards set out in federal law pursuant to their provider agreement. The OMPP estimates the total fiscal impact pertaining to the removal of the requirement for rehabilitative potential for wheelchairs for child recipients in a nursing facility to be \$33,000 in SFY 2018 and \$39,000 in SFY 2019. There is no anticipated fiscal impact associated with the other changes.

If there are any programmatic or fiscal questions, please contact Michael Cook at (317) 232-7050 or at [michael.cook@fssa.in.gov](mailto:michael.cook@fssa.in.gov). Questions regarding any other aspect of the proposed changes should 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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