

Regulatory Analysis
LSA Document #23-727

I. Description of Rule

This section should include an overview of the proposed rulemaking, background, and high-level justification. Topics to address include (as applicable):

a. History and Background of the Rule – Explain the genesis for this rulemaking, including what prompted the agency to undertake this rulemaking. For example, is this rulemaking due to an update in state or federal law, court order, audit finding, operational issue or some other factor? When was the last major update to the rule? What process did the agency follow to develop this rule, for example was there a committee, external working groups, model code, etc.?

b. Scope of the Rule – Describe at a high-level the scope of the changes in the proposed rule. For example, is the rule simplifying a process, clarifying definitions, aligning the rules with current law, or is it a repeal and replace effort to assist with regulatory compliance and implementation. If it is a repeal and replace, explain why this method was chosen rather than simply amending the existing regulations.

c. Statement of Need – Provide a statement explaining the need for the rule and an evaluation of the policy rationale or goal behind the proposed rule, including an explanation as to whether the rule is intended to address 1) a federal or state statutory requirement; 2) a court order; 3) an audit finding, 4) an operational issue, or 5) another factor. For required changes, indicate what are the required changes and when were the new laws enacted, court order issued, audit conducted, etc.? If changes prompted by another factor, explain how that factor creates the need for the rulemaking.

d. Statutory Authority for the Proposed Rule – Include both the authority for the agency to generally regulate in the subject area and the specific authority for the agency to issue the proposed rule.

e. Fees, Fines, and Civil Penalties – Indicate whether the rule adds or increases any fees, fines, or civil penalties and needs to follow the additional steps in [IC 4-22-2-19.6](#).

Response: The rule proposes an increase in rates to comprehensive rehabilitative management needs facilities (CRMNFs). This CRMNF rate was increased in the 2021 legislative session as a measure to assist group homes due to workforce shortages brought on by the COVID-19 public health emergency. Due to how CRMNFs methodology differ from other group homes, they did not receive that increased rate. The rule change would increase the rate paid to any Medicaid-enrolled Large Private Intermediate Care Facilities for Individuals with Intellectual Disabilities that is licensed as a CRMNF from six hundred thirty-nine dollars and eighteen cents (\$639.18) to seven hundred three dollars and ten cents (\$703.10) per resident day. The proposed change also creates consistency between the language used in the title and the body of the rule. The Office of Medicaid Policy & Planning (OMPP) has authority under [IC 12-15-1-10](#); [IC 12-15-21-2](#) and does not add or increase any fees, fines, or civil penalties.

II. Fiscal Impact Analysis

This section should include a discussion of the impact of the proposed rulemaking on State and local government expenditures and revenues. Topics to address include (as applicable):

a. Anticipated Effective Date of the Rule

b. Estimated Fiscal Impact on State and Local Government – Does the rule impact expenditures and revenues of State agencies or local government? If so, to the extent possible, quantify the total impact by year.

c. Sources of Expenditures or Revenues Affected by the Rule – If the rule impacts expenditures and revenues of State agencies or local government, indicate (1) which units of government are impacted, (2) which years are impacted, and (3) which funds are impacted (if known). Also indicate which specific provisions in the rule impose the fiscal impact.

Response:

The rate increase for CRMNFs will be effective 30 days after filing with the publisher and will have the following fiscal impact:

	SFY 2024 (\$ in millions)	SFY 2025 (\$ in millions)
Estimated Increase in Medicaid Payments	\$1.151	\$1.151
Estimated Federal Share	\$0.767	\$0.755
Estimated State Share	\$0.384	\$0.396

III. Impacted Parties

This section should identify all parties that may be impacted from the proposed rule. This will serve as the multiplier for costs and benefits. Consider the impact of the rule on all persons affected by the rule, not just regulated persons. Impacted parties can be determined by a variety of sources including, but not limited to, agency records, calculation, research, estimates, and surveys. Agencies can exclude parties already in compliance from the cost-benefit analysis.

Response: The OMPP estimates that out of a total of two Medicaid-enrolled Large Private Intermediate Care Facilities for Individuals with Intellectual Disabilities (ICFs/IID) licensed as a Comprehensive Rehabilitative Management Needs Facility (CRMNF) providers in Indiana that are impacted by these changes.

IV. Changes in Proposed Rule

This section should identify all changes from existing regulation. This can be done by creating a list of changes or showing the changes in a table format. Failure to identify all changes in the proposed rule is the biggest reason for delays in the OMB review of a proposed rule. Be sure to check legal authority for each provision.

As part of this process, identify all requirements that are being included as part of the proposed rulemaking but are imposed by another source of law. For example, these requirements could be in statute, other regulations, federal regulations, court orders, or compacts. These sources should be included in a list, table, or annotation on the proposed rule language. Requirements that are imposed by another source of law should be excluded from the cost-benefit analysis.

Also, as part of this process, identify all requirements that are being included as part of the proposed rulemaking that incorporate an existing agency standard that is contained in a non-rule document. For example, these standards can be contained in a policy, manual, handbook, contract, form, application, etc. These sources should be included in a list, table, or annotation along with an estimate of the current compliance rate by regulated parties with the standard.

Response: The rule change will amend [405 IAC 1-12-21](#) to increase the rate paid to any Medicaid-enrolled Large Private Intermediate Care Facilities for Individuals with Intellectual Disabilities that are licensed as a Comprehensive Rehabilitative Management Needs Facility (CRMNF) to seven hundred three dollars and ten cents (\$703.10) per resident day. The proposed change also creates consistency between the language used in the title and the body of the rule. There are no requirements that are being included as part of the proposed rulemaking that incorporate an existing agency standard that is contained in a non-rule document. There are no requirements that are being included as part of the proposed rulemaking but are imposed by another source of law.

V. Benefit Analysis

This section should include a discussion of the benefits of the changes made in the proposed rule compared to existing requirements. For each new requirement in the proposed rule, consider the benefits to the general public, regulated community, businesses and other regulated entities, your agency, other state agencies, local partners, individuals, families, and small businesses.

When considering possible direct and indirect benefits, consider questions such as the following: Will the regulation save time or money for your agency or another agency? Does the regulation decrease compliance

costs? Does the regulation increase business profitability by reducing costs? Does the regulation make the market more competitive? Does the regulation decrease the price of goods or services? Does the regulation create benefits for public health or safety?

If benefits cannot be monetized or quantified, the agency should explain why and include a thorough description of the non-quantifiable benefits as well as a determination whether such benefits will be significant.

Topics to address include (as applicable):

a. Estimate of Primary and Direct Benefits of the Rule – A direct benefit is one that occurs as an immediate result of the stated goals of the regulation without any intervening steps or actions and can include things such as the impact on consumer protection, worker safety, the environment, or business competitiveness. For example, the amount of time an employee saves by not having to complete a certain form and the amount of time the agency saves by not having to review the form.

b. Estimate of Secondary or Indirect Benefits of the Rule – An indirect benefit is one that occurs because of the regulation but is unrelated to its stated goals. Continuing from the direct benefit example, an indirect benefit of getting rid of a form would be using money saved to upgrade a certain technology in the agency. The rule change was not made with the goal of updating technology, but that is an added benefit of the change.

c. Estimate of Any Cost Savings to Regulated Industries – Indicate if the proposed rule will provide cost savings individuals and/or businesses. Please note if the savings are from a change in an existing requirement or the imposition of a new requirement.

Response: The primary benefit of this rule amendment is to ensure the rate paid to CRMNFs covers all reasonable costs in the provision of services to individuals in these settings, and to ensure that all group home providers receive a rate increase due to constraints brought on by the COVID-19 public health emergency. There are no estimated cost savings to regulated entities associated with these changes.

VI. Cost Analysis

This section should include a comprehensive enumeration of the cost imposed by the changes made in the proposed rule compared to existing requirements, including tangible and intangible costs. For each new requirement in the proposed rule, consider the costs to the general public, regulated community, businesses and other regulated entities, your agency, other state agencies, local partners, individuals, families, and small businesses.

When considering possible direct and indirect costs, consider questions such as the following: Does the regulation increase compliance costs? Will the regulation require individuals or businesses to change their behavior or procedures to comply? Will the regulation require regulated parties to buy new equipment or software, take more time to complete tasks, hire new workers, take new training, develop new procedures, provide additional information, or take additional actions to comply? Will the regulation require more time or money for your agency or another agency? Does the regulation decrease business profitability by increasing costs? Does the regulation make it more difficult to enter the market? Does the regulation increase the price of goods or services?

If costs cannot be monetized or quantified, the agency should explain why and include a thorough description of the non-quantifiable costs as well as a determination whether such costs will be significant.

Topics to address include (as applicable):

a. Estimate of Compliance Costs for Regulated Entities – Costs are the burden of complying with the rule and can include the costs of fees, new equipment or supplies, increased labor and training, education, supervisory costs, and any other compliance cost imposed by the requirements of the rule. Consider both direct and indirect costs. Direct costs are an immediate result of the regulation without any intervening steps or actions. Indirect costs occur because of the regulation but are unrelated to its stated goals. If possible, agencies should monetize the costs by expressing them in numbers.

b. Estimate of Administrative Expenses Imposed by the Rules – To the extent possible, quantify any legal, consulting, reporting, accounting or other administrative expenses imposed by the requirements of the rule. This includes any additional time regulated parties will need to spend to understand the requirements and comply with them through new processes or procedures.

c. The fees, fines, and civil penalties analysis required by [IC 4-22-2-19.6](#) – If the rule adds or increases a fee, fine, or civil penalty, the agency must define what the fee, fine, or civil penalty is doing / seeking to punish; the circumstances for which the agency will assess a fee, fine, or civil penalty; and provide a calculation of how the agency decided the specific dollar amount (or formula). For a fee, discuss how the amount of a fee is reasonably based on the amount necessary to carry out the purposes for which the fee is imposed. For a fine or civil penalty, discuss how the amount of the fine or civil penalty was determined based on the following considerations as applicable: Whether the violation has a major or minor impact on the health, safety, or welfare of a person or animal; whether the number of previous violations committed by the offender of laws, rules, or programs administered by the agency; the need for deterrence of future violations; and whether the conduct, if proved beyond a reasonable doubt, would constitute a criminal offense, and the level of penalty set by law for the criminal offense.

Response: The OMPP does not expect any additional compliance costs for regulated entities imposed by this rule amendment. The OMPP does not expect any additional administrative costs for regulated entities imposed by this rule amendment. The rule does not add or increase fees, fines, or penalties.

VII. Sources of Information

This section should include a discussion of the sources of outside information utilized to calculate the cost and benefits for the rule. Topics to address include (as applicable):

a. Independent Verifications or Studies – Were there any studies that were relied upon in the cost-benefit analysis? Potential sources include the following: official government reports (e.g., federal, state, or local); academic, technical, or professional articles; commercial literature; businesses' websites; survey data; and word of mouth (e.g., inquiring among business owners). If any source listed above was relied upon in the cost benefit analysis, provide citations to where the studies can be located or indicate how a person can obtain copies from the agency to review.

b. Sources Relied Upon in Determining and Calculating Costs and Benefits – Did the agency use any outside sources to calculate costs and benefits? For example, the consumer price index database, bureau of labor statistics, IRS data, or any internal, industry specific databases. If these were used, provide a citation to view the source or indicate how a person can obtain copies from the agency to review. Did the agency consult with industry groups or associations or conduct a survey of regulated parties to help determine the costs and benefits? If so, please provide a description of what was done and the information obtained.

Response: The OMPP collaborated with the Indiana Association of Rehabilitation facilities (INARF) to discuss the issue and concluded to increase the rate paid to any Medicaid-enrolled Large Private Intermediate Care Facilities for Individuals with Intellectual Disabilities that are licensed as a Comprehensive Rehabilitative Management Needs Facility to seven hundred three dollars and ten cents (\$703.10) per resident day. The OMPP also collaborated with Myer's and Stauffer for the fiscal analysis.

VIII. Regulatory Analysis

Conclude with an aggregated tally of the costs and benefits for each new requirement along with the agency's determination whether the benefits are likely to exceed the costs.

Response:

The state estimates that in SFY 2023, there will be a total impact of \$288,000. In SFY 2024, there will be an estimated total impact \$1.151 million. In SFY 2025, there will be an estimated total impact of \$1.151 million. The OMPP has determined that the benefit of ensuring the rate paid to CRMNFs covers all reasonable costs in the provision of services to individuals in these settings exceeds the costs.

Posted: 11/01/2023 by Legislative Services Agency

An [html](#) version of this document.