

**Regulatory Analysis**  
LSA Document #24-151**I. Description of Rule****a. History and Background of the Rule**

P.L.50-2020 established the Indiana All Payer Claims Data Base ("APCD"). The APCD is a large-scale database that collects and aggregates significant amounts of health care data, including eligibility data, medical claims, pharmacy prescription drug claims, non-fee for service information, and health care provider data. The data collected by the APCD is intended to be used to help identify needs in health care and improve the quality and affordability of health care and health care coverage for Hoosiers. Health payers, including health insurers, pharmacy benefit managers, multiple employer welfare arrangements, and employee benefit plans subject to ERISA, including a third-party administrator, are among the types of entities required to register and submit data to the APCD. P.L.50-2020 required the Department to issue a request for information concerning the creation, operation, and maintenance of a database. The Department was further required to issue a request for proposals and enter into a contract with a vendor to develop and act as an administrator of the data base. The Department has completed these steps, and has adopted emergency rules, as required by [IC 27-1-44.5-11\(a\)](#), to implement [IC 27-1-44.5](#) regarding submission requirements for health payers. The Department recently adopted a provisional rule, effective September 23, 2023.

**b. Scope of the Rule**

There are no substantive differences between the Department's provisional rule and the proposed rule.

**c. Statement of Need**

P.L.190-2023, enacted in May 2023, expanded the definition of "health payer" and requires the Department to develop registration and submission deadlines for these new health payers. This new legislation also granted the Department regular rulemaking authority with respect to APCD registration and submission requirements.

**d. Statutory Authority for the Proposed Rule**

[IC 27-1-44.5](#) *et seq.* establishes the APCD and grants the Department regulatory authority over health payers. [IC 27-1-44.5-11\(a\)](#) requires the Department to adopt rules to implement [IC 27-1-44.5](#).

**e. Fees, Fines, and Civil Penalties**

The proposed rule allows the Department to impose a civil penalty of \$100 per day per violation for the first thirty (30) days that a health payer fails to provide the required data to the APCD, and \$1,000 for each day thereafter. The civil penalty ensures appropriate accountability for reporting to the APCD. It is important to ensure the APCD collects as much data as possible to achieve its legislative purposes, as outlined in [IC 27-1-44.5-4\(b\)](#):

- (1) Identifying health care needs and informing health care policy.
- (2) Comparing costs between various treatment settings and approaches.
- (3) Providing information to consumers and purchasers of health care.
- (4) Improving the quality and affordability of patient health care and health care coverage.

The collection of comprehensive data is essential to the accomplishment of these purposes. The proposed civil penalty was reviewed by the Indiana State Budget Committee on August 4, 2023.

**II. Fiscal Impact Analysis****a. Anticipated Effective Date of the Rule**

The anticipated effective date of the rule is September 30, 2024.

**b. Estimated Fiscal Impact on State and Local Government**

The rule impacts expenditures and revenues of the Department. In fiscal year 2022/2023, expenditures totaled \$1,284,857. This total includes expenditures related to retaining a contracted APCD administrator, as well as salaries and benefits for new staff. Civil penalties imposed upon health payers for noncompliance with the proposed rule could generate revenue. However, the Department does not forecast that civil penalties will generate significant revenue.

**c. Sources of Expenditures or Revenues Affected by the Rule**

The proposed rule impacts the IDOI Dedicated Fund. The fiscal impact began in fiscal year 2021/2022 and

will continue into future fiscal years. The Department was appropriated approximately \$5.5 million for fiscal year 2023/2024, and approximately \$4.5 million for fiscal year 2024/2025.

### III. Impacted Parties

Parties impacted by the proposed rule include health payers, as defined in [IC 27-1-44.5-2](#), which includes health payers that may meet the definition of "small business" under [IC 5-28-2-6](#). The proposed rule will also impact Hoosier consumers, as well as other organizations that may seek to use the aggregated data for health policy recommendations. The APCD will serve as a resource for insurers, consumers, providers, employers, and state agencies to help identify needs in health care and improve the quality and affordability of health care and health care coverage for Hoosiers.

### IV. Changes in Proposed Rule

The proposed rule is substantively identical to the provisional rule.

### V. Benefit Analysis

#### a. Estimate of Primary and Direct Benefits of the Rule

Most of the primary and direct benefits of the proposed rule will be realized when the APCD receives several months of data from health payers. These benefits are tied to the APCD's legislative purposes, including:

- (1) Identifying health care needs and informing health care policy.
- (2) Comparing costs between various treatment settings and approaches.
- (3) Providing information to consumers and purchasers of health care.
- (4) Improving the quality and affordability of patient health care and health care coverage.

#### b. Estimate of Secondary or Indirect Benefits of the Rule

The Department has not identified secondary or indirect benefits of the proposed rule.

#### c. Estimate of Any Cost Savings to Regulated Industries

The proposed rule will not provide direct cost savings to individuals or businesses. There may be indirect cost savings to health care consumers due to increased transparency on health care costs, which will allow consumers to choose lower cost and high quality providers and could result in price competition amongst providers.

### VI. Cost Analysis

#### a. Estimate of Compliance Costs for Regulated Entities

[IC 27-1-44.5-4](#) requires the Department to enter into a contract with an entity to develop the APCD and act as its administrator. [IC 27-1-44.5-5](#) requires health payers to submit data to the APCD in a manner specified by the administrator of the APCD. The rule sets forth the manner of registration and submission and may require health payers to update systems to submit the required data to the APCD. The proposed rule requires all health payers to register but provides exemption from submission requirements for health payers not meeting the plan size submission threshold. Health payers may incur cost in training employees on the submission requirements set forth in the proposed rule. Compliance costs will vary among health payers. The selected administrator of the APCD, Onpoint Health Data ("Onpoint"), developed the first-of-its-kind all payer claims database for the state of Maine in 2003 and has developed more than 50% of the established all payer claims databases nationally since that time. Indiana's APCD operates similarly to these databases; therefore, payers already submitting data in these states may have already invested in the necessary systems. In addition, the proposed rule incorporates the APCD-CDL™, which should minimize updates required, if the health payer operates in another state that uses the APCD-CDL™ for its all payer claims database.

#### b. Estimate of Administrative Expenses Imposed by the Rules

There are currently 223 health payers registered with the APCD, 27 of which are currently submitting data to the APCD. The Department estimates nineteen (19) of the registered health payers not submitting data may meet the definition of "small business." Not all registered health payers meet the requirements to submit data to the APCD. The Department anticipates the number of registered health payers submitting data to the APCD to grow. The APCD is a new requirement for health payers and a new program for the Department to administer. As health payers are educated about their obligations under the APCD more health payers will submit data. Additionally, since the APCD is in the early stages of implementation, the Department's approach to enforcement has been educational in nature in order to build good working relationships with registered health payers when appropriate. As implementation of the APCD progresses, the Department will take regulatory action to compel compliance when appropriate.

The requirement to register imposes minimal cost on regulated entities. Administrative expenses for health

payers submitting data imposed by the proposed rule are estimated to be approximately \$51,000 for the first six (6) months of reporting, and approximately \$2,000 for subsequent months for an annual total of \$63,000. The annual total estimated administrative expenses are \$1,701,000 across all health payers. The selected administrator of the APCD, Onpoint, developed the first-of-its-kind all payer claims database for the state of Maine in 2003 and has developed more than 50% of the established all payer claims databases nationally since that time. Indiana's APCD operates similarly to these databases; therefore, payers already submitting data in these states may have already invested in the necessary systems. In addition, the proposed rule incorporates the APCD-CDL™, which should minimize updates required, if the health payer operates in another state that uses the APCD-CDL™ for its all payer claims database. Therefore, these estimates may be lower for payers reporting in other states which used Onpoint as the administrator or use the APCD-CDL™.

**c. The fees, fines, and civil penalties analysis required by [IC 4-22-2-19.6](#)**

The proposed rule allows the Department to impose a civil penalty of \$100 per day per violation for the first thirty (30) days that a health payer fails to provide the required data to the APCD, and \$1,000 for each day thereafter. The civil penalty ensures appropriate accountability for reporting to the All-Payer Claims Database (APCD). It is important to ensure the APCD collects as much data as possible to achieve its legislative purposes, as outlined in [IC 27-1-44.5-4\(b\)](#):

- (1) Identifying health care needs and informing health care policy.
- (2) Comparing costs between various treatment settings and approaches.
- (3) Providing information to consumers and purchasers of health care.
- (4) Improving the quality and affordability of patient health care and health care coverage.

The collection of comprehensive data is essential to the accomplishment of these purposes. The proposed civil penalty was reviewed by the Indiana State Budget Committee on August 4, 2023.

## VII. Sources of Information

### a. Independent Verifications or Studies

The Department did not rely upon any studies in the development of the cost-benefit analysis.

### b. Sources Relied Upon in Determining and Calculating Costs and Benefits

The administrative expense estimates set forth above are based on salary ranges provided by the Bureau of Labor Statistics (BLS). The Department utilized the BLS salary range for database administrators.

*Bureau of Labor Statistics. (2023, May). Indiana - May 2022 OEWS State Occupational Employment and Wage Estimates. Retrieved November 6, 2023, from <https://www.bls.gov/oes/current/oes.in.htm>.*

## VIII. Regulatory Analysis

The Department determined that adoption of the proposed rule would be most beneficial for the marketplace. There are no less intrusive or less costly alternative methods for achieving the purposes of the proposed rule. Costs and requirements imposed by the proposed rule are necessary for the collection of data and must apply equally to all health payers, including those qualifying as small businesses.

Any cost a health payer will incur for complying with the proposed rule is outweighed by the benefits of the data collection. Onpoint, the administrator of the APCD, is a leading provider of database development and administrator services to all payer claims databases across the country. Using Onpoint's experience in other states and requiring similar data, along with a recognized national format for submission of data, allows payers that operate in those other states to minimize costs. Adoption of the proposed rule is the Department's next step in carrying out its legislative duties and fulfilling the charges of the General Assembly.

*Notice of First Public Comment Period with Proposed Rule: [20240417-IR-760240151FNA](#)  
Notice of Determination Received: March 15, 2024*

*Posted: 04/17/2024 by Legislative Services Agency  
An [html](#) version of this document.*