

## RULEMAKING REPORT TO LEGISLATURE

### CLEARINGHOUSE RULE 21-067

Ch. DHS 102, 103, and 109

#### **Basis and Purpose of Proposed Rule**

The intent of the rule is to take action permitted under s. 105 (1) of 2019 Wis. Act 185 and thereby qualify for increased federal funding under s. 6008 of the Families First Coronavirus Response Act (“FFCRA”), Pub. L. No. 116-127. Section 6008 of FFCRA provides a temporary 6.2 percentage point federal medical assistance percentage (“FMAP”) increase to each state that maintains continuous eligibility for persons enrolled in Medicaid (unless the person leaves the state or requests disenrollment) and does not increase Medicaid premiums during the federal emergency period defined in par. (1)(B) of s. 1135(g) of the Social Security Act, 42 USC 1320b-5(g), and declared by the United States Secretary of Health And Human Services in relation to the COVID-19 pandemic. The increased FMAP provided to the state under the FFCRA amounts to approximately \$150 million per quarter.

In order to continue complying with section 6008 of the FFCRA and receive approximately \$150 million in federal funding per quarter, the Department has determined that permanent rules that supplant the emergency rules (EmR2116) currently in effect and temporarily suspend certain Medicaid eligibility provisions are necessary so that the Department maintains continuous enrollment of Medicaid recipients during the declared federal emergency period. The permanent rule will create sunset provisions that seek to amend or create sections in chs. DHS 102, 103 and 109 specific to maintaining continuous Medicaid enrollment, and then repeal those provisions after end of the federal public health emergency.

#### **Department Response to Legislative Council Rules Clearinghouse Recommendations**

The department accepts the recommendations made by the Legislative Council Rules Clearinghouse and has modified the proposed rule where suggested.

#### **Final Regulatory Flexibility Analysis**

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The issues raised by each small business during the public hearing(s).

The proposed rules will not have an economic impact on small businesses.

Any changes in the rule as a result of an alternative suggested by a small business and the reasons for rejecting any of those alternatives.

No changes in the rule were made because no issues were raised by small businesses during the public hearing or economic impact public commenting period.

The nature of any reports and estimated cost of their preparation by small businesses that must comply with the rule.

None were received because no issues were raised by small businesses during the public hearing.

The nature and estimated costs of other measures and investments that will be required by small businesses in complying with the rule.

The proposed rules will not have an economic impact on small businesses.

The reason for including or not including in the proposed rule any of the following methods for reducing the rule’s impact on small businesses, including additional cost, if any, to the department for administering or enforcing a rule which includes methods for reducing the rule’s impact on small businesses and the impact on public health, safety and welfare, if any, caused by including methods in rules

The proposed rules will not have an economic impact on small businesses.

#### **Changes to the Analysis or Fiscal Estimate/Economic Impact Analysis**

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Analysis

No changes were made to the rule’s fiscal estimate/economic impact analysis.

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#### Fiscal Estimate/Economic Impact Analysis

No changes were made to the rule's fiscal estimate/economic impact analysis.

#### **Public Hearing Summary**

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The department began accepting public comments on the proposed rule via the Wisconsin Legislature Administrative Rules website, and through the Department's Administrative Rules Website on September 20, 2021. A public hearing was held on October 1, 2021, in a virtual public hearing. Public comments on the proposed rule were accepted until October 1, 2021.

**List of the persons who appeared or registered for or against the Proposed Rule at the Public Hearing.**

<b>Registrant</b>	<b>Position Taken (Support or Opposed)</b>
No person registered for or against the proposed rule at the public hearing.	





**Summary of Items Submitted with this Report to the Legislature**

Below is a checklist of the items that are attached to or included in this report to the legislature under s. 227.19 (3), Stats.

Documents/Information	Included in Report	Attached	Not Applicable
Final proposed rule -- Rule Summary and Rule Text		X	
Department response to Rules Clearinghouse recommendations	X		
Final Regulatory Flexibility Analysis	X		
Changes to the Analysis or Fiscal Estimate/Economic Impact Analysis	X		
Public Hearing Summary	X		
List of Public Hearing Attendees and Commenters	X		
Summary of Public Comments and Department Responses	X		
Fiscal Estimate/Economic Impact Analysis		X	
Revised Fiscal Estimate/Economic Impact Analysis			X
Small Business Regulatory Review Board (SBRRB) statement, suggested changes, or other material, and reports made under s. 227.14 (2g), Stats. and Department's response			X
Department of Administration (DOA) report under s. 227.115 (2), Stats., on rules affecting housing			X
DOA report under s. 227.137 (6), Stats., on rules with economic impact of \$20 MM or more			X
Public Safety Commission (PSC) energy impact report under s. 227.117 (2), Stats. and the Department's response, including a description of changes made to the rule			X