

Report From Agency

RULEMAKING REPORT TO LEGISLATURE

CLEARINGHOUSE RULE 23-005

Ch. DHS 107, relating to reimbursement for complex rehabilitation technology prescribed to Medical Assistance (MA) recipients in nursing homes.

Basis and Purpose of Proposed Rule

Section 49.45, (9r) (e), Stats., which was created by 2021 Wis. Act 88, directs the department to reimburse a provider for complex rehabilitation technology with prior authorization when prescribed by a physician, medically necessary, and used by a recipient of Medical Assistance who is a resident of a nursing home. As it is currently written, s. DHS 107.24(4) (c) provides that durable medical equipment (DME), including complex rehabilitation technology, is not covered for recipients who are nursing home residents except for three limited circumstances which are inconsistent with Act 88.

The intent of the proposed rules is to establish rules consistent with s. 49.45 (9r) (e), Stats., by requiring the department to reimburse a provider for a complex rehabilitation technology with prior authorization when prescribed by a physician, medically necessary, and used by a recipient of Medical Assistance who is a resident of a nursing home.

Department Response to Legislative Council Rules Clearinghouse Recommendations

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

Final Regulatory Flexibility Analysis

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

No issues were raised by any small businesses at the public hearing or during the public commenting period.

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:

Not applicable – no issues were raised by small businesses during the public hearing and comment period.

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

No reports or estimated costs were prepared because the proposed rule will not have an economic impact on small businesses.

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

Not applicable - 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:

None of these methods were contemplated because the proposed rule will not have an impact on small businesses.

Changes to the Rule Analysis or Fiscal Estimate/Economic Impact Analysis

Rule Analysis:

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

Fiscal Estimate/Economic Impact Analysis:

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

Public Hearing Summary

The department began accepting public comments on the proposed rule via the Wisconsin Legislature Administrative Rules website, and the Department's Administrative Rules Website on 8/31/2023. A public hearing was held on 9/7/2023, virtually. Public comments on the proposed rule were accepted until 9/7/2023. No one appeared at the public hearing and no written public comments were received.

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

Registrant	Position Taken (Support or Opposed)
N/A	

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

