

## ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

<p>1. Type of Estimate and Analysis <input checked="" type="checkbox"/> Original   <input type="checkbox"/> Updated   <input type="checkbox"/> Corrected</p>	<p>2. Date 10/3/2022</p>
<p>3. Administrative Rule Chapter, Title and Number (and Clearinghouse Number if applicable) DHS 107</p>	
<p>4. Subject Complex Rehabilitation Technology in Nursing Homes</p>	
<p>5. Fund Sources Affected <input type="checkbox"/> GPR   <input type="checkbox"/> FED   <input type="checkbox"/> PRO   <input type="checkbox"/> PRS   <input type="checkbox"/> SEG   <input type="checkbox"/> SEG-S</p>	<p>6. Chapter 20, Stats. Appropriations Affected Not Applicable.</p>
<p>7. Fiscal Effect of Implementing the Rule <input checked="" type="checkbox"/> No Fiscal Effect   <input type="checkbox"/> Increase Existing Revenues   <input type="checkbox"/> Increase Costs   <input type="checkbox"/> Decrease Costs <input type="checkbox"/> Indeterminate   <input type="checkbox"/> Decrease Existing Revenues   <input type="checkbox"/> Could Absorb Within Agency's Budget</p>	
<p>8. The Rule Will Impact the Following (Check All That Apply) <input type="checkbox"/> State's Economy   <input checked="" type="checkbox"/> Specific Businesses/Sectors <input type="checkbox"/> Local Government Units   <input type="checkbox"/> Public Utility Rate Payers <input checked="" type="checkbox"/> Small Businesses <b>(if checked, complete Attachment A)</b></p>	
<p>9. Estimate of Implementation and Compliance to Businesses, Local Governmental Units and Individuals, per s. 227.137(3)(b)(1). \$0</p>	
<p>10. Would Implementation and Compliance Costs Businesses, Local Governmental Units and Individuals Be \$10 Million or more Over Any 2-year Period, per s. 227.137(3)(b)(2)? <input type="checkbox"/> Yes   <input checked="" type="checkbox"/> No</p>	
<p>11. Policy Problem Addressed by the Rule In 2021 Wisconsin Act 88, the Wisconsin Legislature expanded the coverage of complex rehab technology, and directed the Department to reimburse a provider for complex rehab technology with prior authorization when it is (1) prescribed a physician, (2) medically necessary, and (3) used by a by a Medical Assistance recipient who resides in a nursing homes. Current provisions in DHS 107 regarding complex rehabilitation technology in nursing homes are inconsistent with 2021 Wis. Act 88.</p>	
<p>12. Summary of the Businesses, Business Sectors, Associations Representing Business, Local Governmental Units, and Individuals that may be Affected by the Proposed Rule that were Contacted for Comments. The Department directly solicited comments on the economic impact of the proposed rule changes from durable medical equipment suppliers and providers, durable medical equipment supplier and provider professional organizations, centers for independent living, managed care organizations, health maintenance organizations, and member advocates. The Department solicited comments on the economic impact of the proposed rule changes from all other parties interested in providing comments by publishing a solicitation for public comment in the Administrative Register and on the Department's website.</p>	
<p>13. Identify the Local Governmental Units that Participated in the Development of this EIA. None</p>	
<p>14. Summary of Rule's Economic and Fiscal Impact on Specific Businesses, Business Sectors, Public Utility Rate Payers, Local Governmental Units and the State's Economy as a Whole (Include Implementation and Compliance Costs Expected to be Incurred) The proposed rules are not anticipated to have an economic or fiscal impact.</p>	
<p>15. Benefits of Implementing the Rule and Alternative(s) to Implementing the Rule There are no reasonable alternatives to the proposed rulemaking. Current rules are now in conflict with s. 49.45 (9r) (e), Stats.</p>	
<p>16. Long Range Implications of Implementing the Rule</p>	

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The Department has identified several potential long range implications of implementing the proposed rule changes.

- 1.) Medicare does not currently recognize complex rehabilitation technology as separate and distinct from durable medical equipment. As a result, the Department does not anticipate that the proposed rule changes will have an impact on the provision of services or the cost of durable medical equipment or complex rehabilitation technology at this time. However, the Department must update its billing system to create a distinct category for complex rehabilitation technology separating the complex rehabilitation technology from the nursing home rate. As such, the Department anticipates a higher rate of reimbursement of complex rehabilitation technology services in nursing homes.
- 2.) Complex rehabilitation technology is exempt from bidding or selective contracting requirements. This may limit the Department's ability to find cost-savings for these services.
- 3.) The number of complex rehabilitation technology suppliers and providers may be limited due to professional accreditation and business certification requirements beyond those of durable medical equipment suppliers and providers. Current durable medical equipment suppliers and providers may choose not to complete these new requirements. With the separation of complex rehabilitation technology from the general nursing home rate this could incentivize providers to proceed with the accreditation and certification as reimbursement will be higher.

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### 17. Compare With Approaches Being Used by Federal Government

The federal government does not currently recognize complex rehabilitation technology as a category of equipment that is separate and distinct from durable medical equipment. See Proposed Order to Adopt the Rule.

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### 18. Compare With Approaches Being Used by Neighboring States (Illinois, Iowa, Michigan and Minnesota)

Neighboring states do not currently recognize complex rehabilitation technology as a category of equipment that is separate and distinct from durable medical equipment. But, they do have specific rules around DME in nursing homes. See Proposed Order to Adopt the Rule.

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### 19. Contact Name

Bailey Dvorak

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### 20. Contact Phone Number

608-267-5210

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### ATTACHMENT A

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1. Summary of Rule's Economic and Fiscal Impact on Small Businesses (Separately for each Small Business Sector, Include Implementation and Compliance Costs Expected to be Incurred)

The proposed rule changes have the potential to impact CRT providers and Nursing Homes including that that are small businesses. These providers have the opportunity to provide designated CRT as covered products which expands services covered in Nursing Homes.

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2. Summary of the data sources used to measure the Rule's impact on Small Businesses

The department solicited the input of CRT providers and Nursing Homes, including small businesses, as required by state and federal law.

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3. Did the agency consider the following methods to reduce the impact of the Rule on Small Businesses?

- Less Stringent Compliance or Reporting Requirements
- Less Stringent Schedules or Deadlines for Compliance or Reporting
- Consolidation or Simplification of Reporting Requirements
- Establishment of performance standards in lieu of Design or Operational Standards
- Exemption of Small Businesses from some or all requirements
- Other, describe:

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4. Describe the methods incorporated into the Rule that will reduce its impact on Small Businesses

None

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5. Describe the Rule's Enforcement Provisions

The proposed rule changes will be enforced through standard program claim review and auditing activities.

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6. Did the Agency prepare a Cost Benefit Analysis (if Yes, attach to form)

- Yes     No
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