

ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

1. Type of Estimate and Analysis <input checked="" type="checkbox"/> Original <input type="checkbox"/> Updated <input type="checkbox"/> Corrected	2. Date 8/14/2020
3. Administrative Rule Chapter, Title and Number (and Clearinghouse Number if applicable) DHS 107, relating to covered services	
4. Subject The emergency rule grants Medical Assistance program flexibility to ensure member access to prescription drugs by removing prior authorization requirements for prescription drugs not included in the federal rebate agreement, setting certain limits on the number of medication refills and days' supplies of prescription drugs, and the list of non-legend drugs covered by the Medical Assistance program.	
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	6. Chapter 20, Stats. Appropriations Affected
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	
8. The Rule Will Impact the Following (Check All That Apply) <input type="checkbox"/> State's Economy <input type="checkbox"/> Specific Businesses/Sectors <input type="checkbox"/> Local Government Units <input type="checkbox"/> Public Utility Rate Payers <input type="checkbox"/> Small Businesses (if checked, complete Attachment A)	
9. Estimate of Implementation and Compliance to Businesses, Local Governmental Units and Individuals, per s. 227.137(3)(b)(1). \$0	
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	
11. Policy Problem Addressed by the Rule The intent of the emergency rule is to grant Medical Assistance program flexibility to ensure member access to prescription drugs by removing prior authorization requirements for prescription drugs not included in the federal rebate agreement, setting certain limits on the number of medication refills and days' supplies of prescription drugs, and the list of non-legend drugs covered by the Medical Assistance program. Given the supply chain disruption caused by the COVID-19 pandemic, there are a number of drug shortages that have the potential to limit the drugs available to Medicaid members. In order to respond to potential shortages, CMS has stated that states may provide coverage for a drug even if a drug manufacturer has not signed a federal rebate agreement. Removing the prior authorization requirements is needed to avoid a potentially burdensome delay in the program's ability to provide immediate coverage if the market demands it. Additionally, members are delaying or not seeking medical appointments and provider availability is stretched given the national pandemic, which means appointments may be missed to review and renew a prescription. Without a valid prescription our program cannot cover medications and we cannot automatically extend an existing perscription, which results in a disruption to treatment. This rule allows flexibility so we do not have to limit the number of refills for an existing prescription, but there are still federal requirements around schedule III and IV controlled substances which helps manage potential inappropriate prescribing. These provisions also limit the days' supply fill of most medications to a 34-day supply. However, we want to encourage members to fill a 90-day supply to limit the number of visits needed to a pharmacy, which will hopefully limit the potential exposure to COVID-19. The current provisions hinder our ability to allow these larger days' supply.	

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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.

None

13. Identify the Local Governmental Units that Participated in the Development of this EIA.

None

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)

This emergency rule will not have a fiscal impact as the change will not result in any increase or decrease in the amount of prescription drugs dispensed.

15. Benefits of Implementing the Rule and Alternative(s) to Implementing the Rule

The emergency rule grants more flexibility for Medical Assistance member access to prescription drugs. Without the rule there is potential that program members will experience disruptions to medically necessary drug therapies, they will be at an increased risk of contracting COVID-19 given they have to fill prescriptions on a monthly basis, and already limited provider resources will be stretched to comply with program requirements. The emergency rule allows the program the flexibility to adapt the drug benefit to meet the exigent circumstances caused by an unprecedented national emergency. Also, it allows prescribers and pharmacists to utilize their best professional judgment in meeting the needs of our members. Without implementing this emergency rule, members will be put at unnecessary risk because we cannot allow program flexibilities to address the COVID-19 pandemic.

16. Long Range Implications of Implementing the Rule

Not applicable

17. Compare With Approaches Being Used by Federal Government

The Social Security Act of 1935, as amended, provides Medical Assistance coverage for prescription drugs and provides limits to payment rates. Federal regulations do not limit the flexibilities granted under the emergency rule.

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

Illinois Medical Assistance requires prior authorization for prescription drugs not on its preferred drug list and covers a 90-day supply of designated maintenance medications. In March 2020, Illinois expanded its preferred drug list and designated maintenance medications as a result of the public health emergency.

Iowa Medical Assistance requires prior authorization for designated prescription drugs and generally covers a 31-day supply of drugs.

Michigan Medical Assistance requires prior authorization for designated prescription drugs.

Minnesota Medical Assistance requires prior authorization for prescription drugs designated as noncovered and generally covers a 34-day supply of covered drugs.

19. Contact Name

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20. Contact Phone Number

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This document can be made available in alternate formats to individuals with disabilities upon request.

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ATTACHMENT A

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)

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

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:

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

5. Describe the Rule's Enforcement Provisions

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

- Yes No
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