

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 04/23/2021</p>
<p>3. Administrative Rule Chapter, Title and Number (and Clearinghouse Number if applicable) ch. DHS 107</p>	
<p>4. Subject Complex rehabilitation technology prior authorization review</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 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)</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 Section 49.45 (9r) (b), Stats., which was created in 2019 Act 186 ("Act 186"), directs the Department to make a determination on prior authorization requests for complex rehabilitation technology within 10 working days of receiving complete, clinically relevant written documentation.</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. None</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 rule making. The department's current administrative rules are in conflict with s. 49.45 (9r) (b), Stats.</p>	
<p>16. Long Range Implications of Implementing the Rule The proposed rules are not anticipated to have an economic or fiscal impact.</p>	
<p>17. Compare With Approaches Being Used by Federal Government 42 CFR §440.70(b)(3) requires that states provide medical equipment, including durable medical equipment of which complex rehabilitation technology is a subset, suitable for use in the home as home health services and that this equipment must be reviewed by a physician annually. 42 CFR §441.15 requires that states provide medical equipment, including durable medical equipment of which complex</p>	

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rehabilitation technology is a subset, as home health services.

“Medicare Program; End-Stage Renal Disease Prospective Payment System, Payment for Renal Dialysis Services Furnished to Individuals With Acute Kidney Injury, End-Stage Renal Disease Quality Incentive Program, Durable Medical Equipment, Prosthetics, Orthotics and Supplies (DMEPOS) Fee Schedule Amounts, DMEPOS Competitive Bidding (CBP) Proposed Amendments, Standard Elements for a DMEPOS Order, and Master List of DMEPOS Items Potentially Subject to a Face-to-Face Encounter and Written Order Prior to Delivery and/or Prior Authorization Requirements,” 84 Fed. Reg. 151,38330 (2019) proposes to change 42 CFR §414.234(b) to establish a master list of durable medical equipment, of which complex rehabilitation technology is a subset, requiring a face-to-face encounter with a provider, written authorization or prescription, and prior authorization in order to be a covered Medicare service.

“Medicare Program: Modernizing and Clarifying the Physician Self-Referral Regulations,” 84 Fed. Reg. 201,55766 (2019) proposes to change 42 CFR §§411.351 and 441.357 to exclude durable medical equipment suppliers from being value-based enterprise participants.

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

Illinois: As of February 2, 2021, the state has rules related to prior authorization requirements for complex rehabilitation technology under 305 Ill. Stat. 5 and 89 Ill. Admin. Code s. 140.478. The Medicaid agency is directed to establish rules for provision of durable medical equipment including prior authorization requirements. The agency has established rules requiring prior authorization determinations to be completed within 21 days when the requested technology costs less than \$100 and within 30 days when the requested technology costs more than \$100.

Iowa: As of February 16, 2021, the state has rules related to prior authorization requirements for complex rehabilitation technology under IAC ch. 294A, 441 IAC ss. 78.10(294A), 78.28(249A), 441 IAC, and 79.8(249A), and the Medicaid provider handbook. The Medicaid agency has established prior authorization for customized durable medical equipment that costs \$500 or more and generally a 14 calendar day review period.

Michigan: As of February 22, 2021, the state has rules related to prior authorization requirements for complex rehabilitation technology under Act 280 of 1939 s. 400.111j. The Medicaid agency may require prior authorization for medical equipment with a 15 work day review period. The agency has determined that prior authorization is required for complex rehabilitation technology when it costs more than \$500.

Minnesota: As of February 19, 2021, the state has rules related to prior authorization requirements for complex rehabilitation technology under Minn. Stats. s. 256B.0625 subd. 25. and Minn. Admin. Code 9505.0310. These rules generally require prior authorization for durable medical equipment. State Medicaid policy establishes a 10 business day review period for prior authorization requests.

19. Contact Name

Laura Brauer

20. Contact Phone Number

608-266-5368

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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