

## ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

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1. Type of Estimate and Analysis

Original    Updated    Corrected

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2. Administrative Rule Chapter, Title and Number

Chapters DHS 35, Outpatient Mental Health Clinics and 107, Covered Services (Medical Assistance).

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3. Subject

Outpatient psychotherapy services

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4. Fund Sources Affected

GPR    FED    PRO    PRS    SEG    SEG-S

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5. Chapter 20, Stats. Appropriations Affected

No fiscal impact.

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6. Fiscal Effect of Implementing the Rule

No Fiscal Effect       Increase Existing Revenues       Increase Costs  
 Indeterminate       Decrease Existing Revenues       Could Absorb Within Agency's Budget  
 Decrease Cost

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7. The Rule Will Impact the Following (Check All That Apply)

State's Economy       Specific Businesses/Sectors  
 Local Government Units       Public Utility Rate Payers  
 Small Businesses (if checked, complete Attachment A)

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8. Would Implementation and Compliance Costs Be Greater Than \$20 million?

Yes       No

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9. Policy Problem Addressed by the Rule

Section DHS 35.16 (4) (b) requires as a condition for MA reimbursement, a physician's prescription for psychotherapy services. Similarly, ss. DHS 107.02 (2m) (a) 7. and 107.13 (2) (a) (intro.) and 2. and (b) 4. b., require a physician's prescription for mental health services, alcohol and other drug abuse services, and psychotherapy services as a condition for MA reimbursement. Pursuant to ss. 49.45 (30f) and 49.46 (2) (b) 6. f., fm., k., and Lr., Stats., the department is prohibited from requiring a prescription from a physician or other health care provider for psychotherapy services, medical day treatment services, or mental health and alcohol and other drug abuse services as a condition for MA reimbursement. Thus, the department proposes to conform ss. DHS 35.16 (4) (b), 107.02 (2m) (a) 7., and 107.13 (2) (a) (intro.) and 2. and (b) 4. b. to existing state law.

2013 Wisconsin Act 20 included funding to expand MA outpatient mental health coverage to in-home psychotherapy services for children. See, LFB Budget Summary. To effectuate this, the department proposes to revise s. DHS 107.13 (2) (a) 4. and (d) 3. to permit in-home psychotherapy services as a covered service for children.

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10. 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.

A request for comments was sent to approximately 200 persons or organizations, including mental health consumers, various department staff, representatives of mental health advocacy agencies, county departments of human services, and provider organizations, such as the Wisconsin Hospital Association, and other interested parties. In addition, those contacted include county staff who work in the areas of human services and mental health, and who are involved with the department in learning and applying a system change process.

The Wisconsin Association of Family and Children's Agencies (WAFCA) represents many of the larger organizations that own and operate outpatient mental health clinics. Among these are Lutheran Social Services, Catholic Charities, and others.

The Wisconsin Coalition of Behavioral Health Providers represents a number of smaller outpatient mental health clinics.

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The Wisconsin Association of Marriage and Family Therapy was also contacted.

One comment was received from a private mental health services provider. Don Rosenberg, a licensed psychologist, is the President of Shorehaven Behavioral Health, Inc. Mr. Rosenberg had no concerns with the economic impact of the rule.

Another comment was received from a representative of a local governmental unit, as described in the next item.

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11. Identify the local governmental units that participated in the development of this EIA.

The Western Region Recovery & Wellness Consortium (WRRWC) provided a comment on this EIA. The Western Region Recovery & Wellness Consortium (WRRWC) is a consortium of counties working together to improve the mental health and substance abuse service delivery system for public sector recipients. A staffer with Chippewa County, Jill Chaffee, was the author of the comment. Ms. Chaffee had no concerns with the economic impact of the rule.

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12. 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 do not impose requirements on businesses, including small businesses.

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

The department's proposal would conform the department's administrative code to the Wisconsin statutes, which prohibit the department from requiring a prescription from a physician or other health care provider for psychotherapy services, medical day treatment services, or mental health and alcohol and other drug abuse services as a condition for MA reimbursement. In addition, the department would expand MA outpatient mental health coverage to in-home psychotherapy services for children. The Legislature provided funding to do so in 2013 Wisconsin Act 20, the biennial budget act.

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14. Long Range Implications of Implementing the Rule

There are no known long range implications of implementing the rule.

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15. Compare With Approaches Being Used by Federal Government

There appear to be no existing or proposed federal regulations that address the activities to be regulated by the rules.

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

Illinois:

In-home psychotherapy services as a MA covered service for children is implemented by Illinois statutes only. There are no administrative rules.

Iowa:

The Iowa Administrative Code provides broad latitude as to the location of service. Iowa administrative code section 441 IAC 78.1 permits payments for all medically necessary services and supplies provided by the physician including services rendered in the physician's office or clinic, the home, in a hospital, nursing home or elsewhere.

Michigan:

In-home psychotherapy services as a MA covered service for children is implemented by Michigan statutes only. There are no administrative rules.

Minnesota:

In-home psychotherapy services as a MA covered service for children is implemented by Minnesota statutes only. There are no administrative rules.

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17. Contact Name

18. Contact Phone Number

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**Fiscal Estimate & Economic Impact Analysis**

Al Matano

| (608) 267-6848

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## ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

### 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 rule would have no to minimal impact on small businesses.

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

The proposed rules do not impose regulatory requirements on businesses, including small businesses.

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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:
- 

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

The proposed rules do not impose requirements on small businesses, including small businesses.

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5. Describe the Rule's Enforcement Provisions

The rule does not include enforcement provisions.

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

- Yes     No
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