

## 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 10/23/2023</p>
<p>3. Administrative Rule Chapter, Title and Number (and Clearinghouse Number if applicable) DHS 105, relating to provider certification and DHS 107, relating to covered services</p>	
<p>4. Subject Pharmacist Reimbursement through Medical Assistance</p>	
<p>5. Fund Sources Affected <input checked="" type="checkbox"/> GPR   <input checked="" 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 s. 20.435(4)(b) and s. 20.435(4)(o)</p>
<p>7. Fiscal Effect of Implementing the Rule <input type="checkbox"/> No Fiscal Effect   <input type="checkbox"/> Increase Existing Revenues   <input checked="" type="checkbox"/> Increase Costs   <input type="checkbox"/> Decrease Costs <input checked="" type="checkbox"/> Indeterminate   <input type="checkbox"/> Decrease Existing Revenues   <input checked="" type="checkbox"/> Could Absorb Within Agency's Budget</p>	
<p>8. The Rule Will Impact the Following (Check All That Apply) <input checked="" 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 (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 The Department intends to promulgate administrative rules necessary to effectuate the purpose of 2021 Wis. Act 98 ("Act 98"), which directs the Department to provide reimbursement for services that are reimbursable under s. 49.46 and provided by a licensed pharmacist within the scope of his or her license or performed under s. 450.033, Stats. Section 450.033, Stats., permits a pharmacist to "perform any patient care services delegated to the pharmacist by the physician.."</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 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. No public comments were provided during this comment period.</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) By establishing a new Medicaid provider category and allowing more providers to bill Medicaid for reimbursement, the statutory changes enacted under 2021 Act 98 and the proposed rule changes are expected to increase access Medicaid services. As a result of increased access to services, it is expected that state Medicaid program costs could also increase by an indeterminate amount over the long term. Anticipated costs are indeterminate because it is unknown how many individual pharmacists will enroll as Medicaid providers and begin billing for dispensing drugs, vaccine administration, or other services within the scope of their license. It is also unknown the extent to which claims submitted by pharmacists will replace or be in addition to claims that would otherwise have been submitted by pharmacies or other licensed professionals prior to enactment of 2021 Act 98. Similarly, the volume of services to Medicaid members that physicians will delegate to pharmacists is unknown, along with to what level delegated services will replace services</p>	

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physicians would otherwise provide and seek reimbursement.

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15. Benefits of Implementing the Rule and Alternative(s) to Implementing the Rule  
Statutory provisions enacted under 2021 Act 98 and the related proposed rule changes are expected to benefit Wisconsin pharmacist providers by expanding the scope and volume of services for which these providers may receive reimbursement. There are no reasonable alternatives to the proposed rulemaking. The Wisconsin Legislature has explicitly directed the Department to promulgate rules identifying certain reimbursable Medical Assistance services.

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16. Long Range Implications of Implementing the Rule  
The proposed rule changes will provide additional access to Medical Assistance services by allowing covered services to be provided by pharmacists.

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17. Compare With Approaches Being Used by Federal Government  
42 CFR 440.60 (a) "Medical care or any other type remedial care provided by licensed practitioners" means any medical or remedial care or services, other than physicians' services, provided by licensed practitioners within the scope of practice as defined under State law.

42 CFR s. 482.25 (b) Standard: Delivery of services. In order to provide patient safety, drugs and biologicals must be controlled and distributed in accordance with applicable standards of practice, consistent with Federal and State law.

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

Illinois:

As of August 25, 2022, the state has legislation related to pharmacy practices under Ch. 111, par. 4121 and 68 Ill. Admin. Code Part 330. Pharmacy practices are allowed to dispense medicines and drugs as prescribed as well as administer vaccines and the administration of injections. But, in Chapter I, Section 140.441 Subchapter d, the Medical Assistance program excludes vaccine and administration of injections as not reimbursable and excluded from coverage.

Iowa:

As of August 25, 2022, the state has rules related to pharmacy services under IAC ch. 39, 657 IAC part 39.1 – 39.16. This includes 39.8(1) and 39.8 (2) Vaccine administration and Medication administration. In addition, in IAC ch. 78, IAC part 441—78.42(249A) the Medicaid program reimburses when the authorized pharmacist providing the vaccine meets all Iowa board of pharmacy expanded practice standards and Medicaid requirements, payment will be made for the following: Vaccines administered to children, Vaccines administered to adults.

Michigan:

There do not appear to be regulations in Michigan relating to reimbursement of pharmacy services.

Minnesota:

As of August 25, 2022, under Minn. Admin. Code 9505.0340 payment limitations under pharmacy services are described. "Pharmacy service" means the dispensing of drugs under Minnesota Statutes, chapter 151 or by a physician under subpart 2, item B. Minnesota does not address services outside the dispensing of drugs for pharmacists.

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19. Contact Name

Bailey Dvorak

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 Medical Assistance providers that are small businesses. These providers have the opportunity to provide some covered services in a pharmacy, which expands the pool of potential members and services provided. These providers may also experience increased competition from larger providers providing similar covered services.

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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 Medical Assistance providers, including small businesses, throughout the policy and proposed rule change process.

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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

While all providers are required to follow the same requirements, the Department included a number of requirements with the intent to reduce the burden on small business providers such as expanding the pool of potential members and services provided beyond that traditionally available for in-person services.

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5. Describe the Rule's Enforcement Provisions

The proposed rule changes will be enforced through standard Medical Assistance 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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