

ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

1. Type of Estimate and Analysis

Original Updated Corrected

2. Administrative Rule Chapter, Title and Number

DHS 133, Home health agencies

3. Subject

Home health agencies

4. Fund Sources Affected

GPR FED PRO PRS SEG SEG-S

5. Chapter 20, Stats. Appropriations Affected

N/A

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

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

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

Yes No

9. Policy Problem Addressed by the Rule

On April 12, 2012, 2011 Wisconsin Act 161 went into effect, amending the definition of *home health services* found in s. 50.49 (1) (b), Stats., to include services that are provided to an individual who is under the care of a physician assistant. This change authorizes physician assistants to complete certain medically related actions in home health agencies. The department proposes to conform ch. DHS 133 to s. 50.49 (1) (b), Stats., and therefore broaden the scope of home health services.

The department has also determined that certain provisions of DHS 133 have led to confusion. The department proposes to clarify the following provisions in order to provide greater clarity and flexibility to home health agencies in meeting regulatory requirements:

- DHS 133 currently requires that an abstract of the patient's record accompany the patient when the patient is transferred to another agency or health care facility. The department intends to clarify that an abstract of a patient's record is the same as a summary of a patient's record and that it must be provided to the receiving agency or facility.
- Additionally, ch. DHS 133 currently only specifies the CDC as an authority for reference in the development of the agency's infection control and prevention program. The department proposes to clarify that agencies may use other nationally recognized subject authorities, in addition to the Centers for Disease Control and Prevention, to assist in the development of their infection control and prevention program.

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.

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Wisconsin has 163 licensed home health agencies that may be affected by this rule. Ninety-four are proprietary, 58 are non-profit and 11 are government owned. The department formed an Advisory Committee consisting of home health agency administrators and registered nurses. Members of the Advisory Committee were approved by the Governor's Office of Regulatory Compliance. The public was notified of all Advisory Committee meetings pursuant to Wisconsin's Open Meetings law. Committee members reviewed the initial draft and their comments guided the development of the proposed rule. In addition, the department requested comments on the economic impact of the proposed rule by publishing a solicitation in the Administrative Register and on its website. The department did not receive comments on the proposed rule.

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

None.

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)

None.

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

The rule will be consistent with the statutory definition of a home health agency and clarify provisions in ch. DHS 133 relating to patient records and infection control and prevention programs. These revisions are necessary in order to reduce confusion, and provide greater flexibility to home health agencies in meeting regulatory requirements.

14. Long Range Implications of Implementing the Rule

The rule will be consistent with the statutory definition of a home health agency and clarify provisions in ch. DHS 133 relating to patient records and infection control and prevention programs. These revisions are necessary in order to reduce confusion, and provide greater flexibility to home health agencies in meeting regulatory requirements.

15. Compare With Approaches Being Used by Federal Government

Physician assistants: There appears to be no existing or proposed federal regulations that address the activities to be regulated by the proposed rule.

Abstract of a patient record: The federal regulations contain similar requirements (42 CFR Part 484.48 (a) Federal Conditions of Participation for Home Health Agencies).

Infection control and prevention program: There appears to be no existing federal regulations that address the activities to be regulated by the proposed rule. On October 6, 2014 the Centers for Medicare & Medicaid Services (CMS) issued a proposed rule that would require each home health agency to maintain and document a program to prevent and control infections and communicable diseases. The infection control program would follow accepted standards of practice, including standard precautions, and educate staff, patients, and caregivers about proper infection control procedures. The proposed rule was published in the Federal Register for public comments but has

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not, as of this date, been published as a final rule.

[All searches conducted April 2016.]

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

Illinois:

Physician assistants: Illinois law does not specifically address the practice of care provided by a physician assistant nor does it preclude the practice of a physician assistant in a home health agency.

Abstract of a patient record: Illinois rules require that each home health agency develop a discharge summary giving a brief review of service, patient status, reason for discharge, and plans for post-discharge needs of the patient. A discharge summary may suffice as documentation to close the patient record for one-time visits, and short-term, event-focused or diagnoses-focused interventions. The discharge summary need not be a separate piece of paper and may be incorporated into the routine summary of reports already furnished to the physician. A copy of appropriate patient transfer information shall be provided, when requested, if the patient is transferred to another health facility or health agency. (Illinois Home Health Agency, 79 III. Adm. Code Part 245).

Infection control and prevention program: Illinois rules require each home health agency to develop and implement policies and procedures for investigating, controlling and preventing infections. Placement agencies must provide to in-home services workers the CDC publication "Guidelines for Hand Hygiene in Health-Care Settings." Each agency must also adhere, at a minimum and as appropriate, to the guidelines of the CDC, United States Public Health Service, and Department of Health and Human Services, as incorporated in Section 245.25(b). (Illinois Home Health Agency, 79 III. Adm. Code Part 245).

Iowa:

Iowa does not appear to have an administrative rule governing home health agencies.

Michigan:

Michigan does not appear to have an administrative rule governing home health agencies.

Minnesota:

Physician assistants: Minnesota law does not specifically address the practice of care provided by a physician assistant nor does it preclude the practice of a physician assistant in a home health agency.

Abstract of a patient record: If a client transfers to another home care provider or other health care practitioner or provider, or is admitted to an inpatient facility, the home care provider, upon request of the client or the client's representative, must take steps to ensure a coordinated transfer including sending a copy or summary of the client's record to the new home care provider, the facility, or the client, as appropriate. (Minn. R. Chapter 4668)

Infection control and prevention program: A home care provider must establish and maintain a comprehensive tuberculosis infection control program according to the most current tuberculosis infection control guidelines issued by the CDC, Division of Tuberculosis Elimination, as published in CDC's Morbidity and Mortality Weekly Report. The program must include a tuberculosis infection control plan that covers all paid and unpaid employees, contractors, students, and volunteers. The state department of health must provide technical assistance regarding

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implementation of the guidelines. (Minn. R. Chapter 4668)

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