

REGULATORY ANALYSIS

For

Amendments to Rules Pertaining to the Standards for Hospitals and Health Facilities

6 CCR 1011-1

Chapter XXVI, Home Care Agencies

September 21, 2011

1. **A description of the classes of persons who will be affected by the rule, including classes that will bear the costs of the proposed rule and classes that will benefit from the rule.**

The primary classes of persons who will be affected by and bear the costs of the proposed rule are the owners and operators of home care agencies. Consumers of home care services will also be affected by and benefit from the rule amendment.

2. **To the extent practicable, a description of the probable quantitative and qualitative impact of the proposed rule, economic or otherwise, upon affected class of persons.**

The proposed rule will have a quantitative impact on some home care agencies because they will pay increased renewal license fees. The amount of the increase will vary by agency. Qualitatively, the increased revenue from the fee adjustment will benefit consumers because it will enable the Department to fully administer the home care agency program which includes inspecting home care agencies for compliance with regulatory standards and investigation of complaints against home care agencies. The proposed rule will also

3. **The probable costs to the agency and to any other agency of the implementation and enforcement of the proposed rule and any anticipated effect on state revenues.**

The Department does not anticipate any significant additional cost with implementing and enforcing the proposed rule. Costs to other state agencies will remain unchanged.

4. **A comparison of the probable costs and benefits of the proposed rule to the probable costs and benefits of inaction.**

Inaction is not a viable option because the current license fee structure does not allow the Department to fulfill its statutory obligation to conduct licensure inspections and enforce the home care agency standards.

5. **A determination of whether there are less costly methods or less intrusive methods for achieving the purpose of the proposed rule.**

The determination is that there are no other less costly methods or less intrusive methods for achieving the purpose of the amendment at this time.

6. **A description of any alternative methods for achieving the purpose of the proposed rule that were seriously considered by the agency and the reasons why they were rejected in favor of the proposed rule.**

Several different options were considered and rejected including raising fees based upon the assumptions and calculations taken from the original 2008 legislation and fiscal note, updated for present time estimates and costs. This formula would have raised the average renewal fee for agencies providing skilled services to \$2,346, and for agencies providing personal care services to \$2,009. This method was rejected because it would have had a detrimental fiscal impact on many licensees. Ultimately, the home care agency advisory committee voted to adopt the proposed flat fee at two different levels for skilled care and personal care plus an increased fee when a second revisit is required. This option was chosen as the best means of fulfilling the legislative intent and addressing issues raised by the committee and the Department.

7. **To the extent practicable, a quantification of the data used in the analysis; the analysis must take into account both short-term and long-term consequences.**

In the short term, some home care agencies will experience an increase in their renewal license fees under this proposal. However, the flat fee will be less administratively burdensome on all parties than the current fee structure which is based upon wages reported on a workers' compensation audit or similar documentation. Although the flat fee will not result in the total amount of revenue originally anticipated based upon the assumptions and calculations presented in the 2008 legislation and fiscal note, it is anticipated that it will support the continued operation of the home care agency program once the Department implements its proposed efficiency measures. Therefore the long term consequence is that the proposed flat fee should be sufficient allow the Department to fulfill its statutory obligation to conduct licensure inspections and enforce the home care agency standards.