

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

SECOND NOTICE OF PROPOSED RULEMAKING

- 1) Agency Name: Department of Healthcare and Family Services
- 2) Subject of Proposed Rulemaking: Mandatory Enrollment in Managed Care Organizations

Heading of the Part: Medical Payment

Code Citation: 89 Ill. Adm. Code 140

- 3) Date of Proposed Rulemaking: January 14, 2011

Illinois Register Citation: 35 Ill. Reg. 687

Summary of Proposed Rulemaking: This rulemaking allows the Department to mandate individuals to enroll in Managed Care Organizations (MCOs). The authority is not limited to any particular population or geographic area.

- 4) Text and Location of Changes Made to the Proposed Rulemaking During the Public Comment Period: In Section 140.1010 added to new subsections (f) and (g):

“(f) In circumstances where an individual does not have a choice of MCO, the procedures outlined in subsections (b) through (e) shall be followed for choosing a primary care provider.

(g) For purposes of this Section, Managed Care Organization includes any entity with a contract for a Care Coordination Program pursuant to Section 5-30 of the Public Aid Code (305 ILCS 5/5-30), Section 23 of the Children’s Health Insurance Program Act (215 ILCS 106/23) or Section 56 of the Covering All Kids Health Insurance Act (215 ILCS 170/56). Any contract subject to this Section shall have outcome measures, enrollee protections to assure quality and access, and financial accountability for the contractor based on quality measures.”

- 5) Response to Recommendations Made by the Administrative Code Division: Not applicable
- 6) Incorporation by Reference: This proposed rulemaking does not include any incorporation by reference.
- 7) Final Regulatory Flexibility Analysis:
 - A) The Department did not receive any comments from small businesses or local governmental units regarding this proposed rulemaking.

- B) No alternatives to the proposed rulemaking were suggested by small businesses or local governmental units.
- 8) Compliance with Small Business Flexibility Requirements: This rulemaking has no effect on small businesses or units of local government. No action is required with respect to Section 5-30 of the Illinois Administrative Procedure Act.
- 9) Agency's Evaluation of Submissions by Interested Persons During the Public Comment Period:
- A) List of individuals and groups submitting comments: The following individuals submitted comments:
- Bechara Choucair, M.D., Commissioner
City of Chicago Department of Public Health
333 South State Street
Chicago, Illinois 60604-3972
- Tim J. O'Brien
Fletcher, O'Brien, Kasper & Nottage, P.C.
Government and Public Affairs Consulting
222 North LaSalle Street
Chicago, Illinois 60601-1013
- Bill Bruce, President/C.E.O.
Greenville Regional Hospital
200 Healthcare Drive
Greenville, Illinois 62246
- Vijay Kotte, President-Midwest Region
Harmony Health Plan of Illinois
200 West Adams Street
Chicago, Illinois 60606
- Wayne M. Lerner, President/C.E.O
Holy Cross Hospital
2701 West 68th Street
Chicago, Illinois 60629
- Howard A. Peters III, Executive Vice President
Illinois Hospital Association
1151 East Warrenville Road

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Naperville, Illinois 60566

Kurt E. Johnson, President/CEO
Ingalls Memorial Hospital
One Ingalls Drive
Harvey, Illinois 60426

Patrick M. Magoon, President/CEO
Children's Memorial Hospital

David Gozal, MD
Herbert T. Abelson Professor and Chair
Department of Pediatrics
Comer Children's Hospital
The University of Chicago

Stephanie F. Altman, Program and Policy Director
Health & Disabilities Advocates

Craig A. Backs, M.D., Chair of the Board
Illinois State Medical Society

David J. Hagan, MD
Chair of the Board
Illinois State Medical Society

David J. Hagan, MD, President
Illinois Academy of Family Physicians
4756 Main Street
Lisle, Illinois 60532

Paula K. Jaudes MD, Vice President
Illinois Chapter of the American Academy of Pediatrics
President, La Rabida Children's Hospital
Chicago, Illinois

Dennis L. Vickers, MD, President
Illinois Chapter, American Academy of Pediatrics
Chicago, Illinois

Ed Pont, MD FAAP, Past President
Illinois Chapter, American Academy of Pediatrics

- B) Specific criticisms, suggestions, and comments raised: The Department received numerous comments on the proposed rule. All of the comments expressed a concern that the rule was written too narrowly to accommodate models of care coordination contemplated in the passage of PA 96-1501, commonly referred to as the Medicaid Reform Bill.
- C) Changes made as a result of public comments: In response to these comments, the Department has added subsection (g) to make clear that the term “managed care organization” includes all models that comply with that Act. In addition, to accommodate the fact that some of those models may not allow for two health plans in an area, subsection (f) was added to enable the Department to comply with federal regulations in such situations. In addition, the Department met with several of the entities that submitted comments. An ex parte report on this meeting will be filed. At the meeting a concern was raised that some entities in which the Department enrolled individuals might not provide adequate access or quality. As a result of this meeting, the Department added the final sentence in subsection (g) of Section 140.1010.
- D) Public hearings: None
- 10) Justification and Rationale for the Proposed Rulemaking:
- A) Changes in Illinois laws that require the rulemaking: None
- B) Changes in agency policies and procedures that require the rulemaking: None
- C) Federal laws, rules or funding requirements which require the rulemaking: None
- D) Court orders or decisions which require the rulemaking: None
- E) Any other reasons for the rulemaking: None
- 11) Agency Personnel Who Will Respond to Joint Committee Questions Regarding the Proposed Rulemaking: Please address any questions to:

Jeanette Badrov
General Counsel
Illinois Department of Healthcare and Family Services
201 South Grand Avenue East, 3rd Floor
Springfield IL 62763-0002

217/782-1233

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- 12) State Mandates Act Questionnaire: See Attachment Two.
- 13) Analysis of Economic and Budgetary Effects of the Proposed Rulemaking: See Attachment Three.
- 14) Impact Statement from Department of Commerce and Economic Opportunity: The Department of Commerce and Economic Opportunity has indicated that these proposed amendments will not adversely affect small businesses.

ATTACHMENT ONE

FIRST NOTICE CHANGES

CHANGES IN THE TEXT OF THE PROPOSED AMENDMENTS
DURING THE FIRST NOTICE PERIOD

Agency: Department of Healthcare and Family Services

Heading of the Part Medical Payment (89 Ill. Adm. Code 140)

Illinois Register Citation: 35 Ill. Reg. 687

Changes:

The following changes have been made:

1. After line 744, added two new subsections after subsection (e) to read as follow:

“(f) In circumstances where an individual does not have a choice of MCO, the procedures outlined in subsections (b) through (e) shall be followed for choosing a primary care provider.”

“(g) For purposes of this Section, Managed Care Organization includes any entity with a contract for a Care Coordination Program pursuant to Section 5-30 of the Public Aid Code (305 ILCS 5/5-30) Section 23 of the Children’s Health Insurance Program Act (215 ILCS 106/23) or Section 56 of the Covering All Kids Health Insurance Act (215 ILCS 170/56). Any contract subject to this Section shall have outcome measures, enrollee protections to assure quality and access, and financial accountability for the contractor based on quality measures.”

ATTACHMENT TWO

STATE MANDATES ACT QUESTIONNAIRE

Agency: Department of Healthcare and Family Services

Heading of the Part: Medical Payment (89 Ill. Adm. Code 140)

Illinois Register Citation: 35 Ill. Reg. 687

1. Does this rulemaking affect a municipality, county, township, other unit of local government, school district or community college district?

Yes No

If yes, please check the type of entity or entities that are affected.

Municipality
County
Township
Other Unit of Local Government
School District
Community College District

2. Does this rule require a unit of local government, a school district, or a community college district to establish, expand or modify its activities in such a way as to necessitate additional expenditures from local revenues?

Yes No

Total number of units affected: 0

If yes, please estimate the amount of additional expenditures necessitated by this rulemaking per unit of government: \$_____

NOTE: If the dollar amount, or total number of units affected is unknown, please outline and attach to this form a specific and detailed explanation of the steps taken by the

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agency to determine the approximate expense of the rulemaking, and the number of units affected.

If no, please explain why the rule does not necessitate such additional expenditures.

These proposed amendments do not require additional expenditures by any units of local government because they do not regulate or impose any responsibilities on units of local government.

3. Were any alternatives to the rule, which did not necessitate additional expenditures considered?

Yes No

If yes, please list these alternatives and explain why these alternatives were rejected.

4. What is the policy objective(s) of the rulemaking? (Please be specific)

The policy objectives of these proposed amendments are fully explained in the Notice of Proposed Amendments.

5. Please explain, in detail, why the policy objective(s) of this rule cannot be achieved in the absence of the rule.

This rulemaking allows the Department to mandate individuals to enroll in Managed Care Organizations (MCOs). The authority is not limited to any particular population or geographic area.

ATTACHMENT THREE

AGENCY ANALYSIS OF ECONOMIC AND BUDGETARY EFFECTS OF PROPOSED RULEMAKING

Agency: Department of Healthcare and Family Services

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Please attempt to provide as dollar-specific responses as possible and feel free to add any relevant narrative explanation.

1. Anticipated effect on State expenditures and revenues.
 - (a) Current cost to the agency for this program/activity.

There is no current mandatory MCO program.
 - (b) If this rulemaking will result in an increase or decrease in cost, specify the fiscal year in which this change will first occur and the dollar amount of the effect.

Mandatory enrollment in MCOs is expected to save \$20 million in FY'12 and over \$700 million in the next five years compared to the cost in the current fee-for-service program.
 - (c) Indicate the funding source, including Fund and appropriation lines for this program/activity.

Healthcare Provider Relief Fund, Appropriation Code 0793-47865-4900-0100
 - (d) If an increase or decrease in the costs of another State agency is anticipated, specify the fiscal year in which this change will first occur and the estimated dollar amount of the effect.

There is no anticipated increase or decrease in the costs of another State agency.
 - (e) Will this rulemaking have any effect on State revenues or expenditures not already indicated above? Specify effects and amounts.

There is no effect on State revenues or expenditures not already indicated.
2. Economic effect on entities regulated by the rulemaking.

- (a) Indicate the economic effect and specify the entities affected: This rulemaking affects the rights of individuals enrolled in Medicaid. It will have no economic impact on them.

Positive

Negative

No effect

Entities Affected: _____

Dollar amount per entity: N/A

Total Statewide cost:

- (b) If an economic effect is predicted, please briefly describe how the effect will occur. (Example: Additional continuing education courses will require expenditures for course fees.)
- (c) Will the rulemaking have an indirect effect that may result in increased administrative costs? Will there be any change in requirements such as filing, documentation, reporting or completion of forms? Compare to current requirements.

There is no indirect effect that may result in increased administrative costs.