

Michigan Office of Administrative Hearings and Rules
Administrative Rules Division (ARD)

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REQUEST FOR RULEMAKING (RFR)

1. Department:

Health and Human Services

2. Bureau:

Medical Services Administration

3. Promulgation type:

MCL 24.244 (1)

4. Title of proposed rule set:

Adult Home Help Service Payments

5. Rule numbers or rule set range of numbers:

R 400.1101-1107

6. Estimated time frame:

3 months

Name of person filling out RFR:

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7. Describe the general purpose of these rules, including any problems the changes are intended to address.

These rules set the eligibility and responsibility standards of the Department and client in obtaining Home Help services via Medicaid. The Department is seeking rescission of these antiquated rules as the subject matter of all of these rules has been updated under a new title under the Social Security Act, Title XIX, and are duplicative with the federal regulations under 42 CFR Part 431, 42 CFR Part 435, and 42 CFR Part 440. The Department has issued a policy manual, entitled "Medicaid Provider Manual" that incorporates the federal regulation and has opted, under MCL 400.6, to forgo rule promulgation as federal regulations exist for the current rules and policy has already captured these changes in order for federal funding to be provided to Michigan.

8. Please cite the specific promulgation authority for the rules (i.e. department director, commission, board, etc.).

Department Director

A. Please list all applicable statutory references (MCLs, Executive Orders, etc.).

By authority conferred on the Department of Health and Human services by sections 6 and 10 of 1939 PA 280, MCL 400.6 and 400.10.

B. Are the rules mandated by any applicable constitutional or statutory provision? If so, please explain.

There is no requirement to mandate the promulgation of rules as these are federal regulations that the state has incorporated into its state plan for purposes of federal funding. Under MCL 400.6(4), the Department requests that policies created from federal statute or regulation allows for the rescission of the current rules and that the Medicaid manual created as policy act in lieu of and replaces the need for further rule promulgation.

9. Please describe the extent to which the rules conflict with or duplicate similar rules, compliance requirements, or other standards adopted at the state, regional, or federal level.

The rules duplicate with the current federal regulations under 42 CFR Part 431, Part 435, and Part 440. These rules were promulgated in 1980 under Title XX of the Social Security Act. The federal regulations have changed. The new Medicaid requirements are now found under Title XIX and these rules are duplicative of Title XIX, e.g. R 400.1105 is now found under 42 CFR 435.20. Further, MCL 400.6 allows the Department to establish policies under federal statute or regulation for purposes of federal funding to Michigan without the need of rule promulgation.

10. Is the subject matter of the rules currently contained in any guideline, handbook, manual, instructional bulletin, form with instructions, or operational memoranda?

Yes. There is a Medicaid Provider Manual that incorporates the federal regulations that are the subject of these rules.

11. Are the rules listed on the department's annual regulatory plan as rules to be processed for the current year?

These rules were not listed on the department's regulatory plan for this current year.

12. Will the proposed rules be promulgated under Section 44 of the Administrative Procedures Act, 1969 PA 306, MCL 24.244, or under the full rulemaking process?

MCL 24.244 (1)

A. Explain why the rules are being promulgated under 24.244.

The rules are 40 years old and were promulgated under then the federal regulations for Medicaid. Medicaid regulation has expanded tremendously, has shifted from Title XX to now Title XIX and are contained within the current Medicaid regulations. As MCL 400.6 allows for the Department to create policy from federal regulation as required for federal funding, the Department is requesting a rescission of all of the current rules without further need of rule promulgation.