

Michigan Office of Administrative Hearings and Rules

Administrative Rules Division (ARD)

MOAHR-Rules@michigan.gov

**REGULATORY IMPACT STATEMENT
and COST-BENEFIT ANALYSIS (RIS)**

Agency Information:

Department name:

Labor and Economic Opportunity

Bureau name:

Workers' Compensation Agency

Name of person filling out RIS:

David Campbell

Phone number of person filling out RIS:

517-284-8891

E-mail of person filling out RIS:

CampbellD5@michigan.gov

Rule Set Information:

ARD assigned rule set number:

2022-42 LE

Title of proposed rule set:

Workers' Compensation Health Care Services (HCS)

Comparison of Rule(s) to Federal/State/Association Standard

1. Compare the proposed rules to parallel federal rules or standards set by a state or national licensing agency or accreditation association, if any exist.

The Health Care Services (HCS) rules are consistent with Medicare and standard industry practices. The HCS rules must be updated regularly to maintain consistency with the most recent medical indexes, billing codes, and fee schedules published by Medicare and other entities, in a timely fashion.

A. Are these rules required by state law or federal mandate?

Yes, they are required by state law. Annual review mandated by state statute and recurring state budget language. Sections 205 and 315 of 1969 PA 317, Section 33 of 1969 PA 306, Executive Reorganization Order Nos. 1982-2, 1986-3, 1990-1, 1996-2, 2003-1, 2011-4, 2019-3, MCL 418.205, 418.315, 24.233, 18.24, 418.1, 418.2, 445.2001, 445.2011, 445.2030, and 125.1998.

B. If these rules exceed a federal standard, please identify the federal standard or citation, describe why it is necessary that the proposed rules exceed the federal standard or law, and specify the costs and benefits arising out of the deviation.

These rules do not exceed federal standards.

2. Compare the proposed rules to standards in similarly situated states, based on geographic location, topography, natural resources, commonalities, or economic similarities.

Each state creates their own set of rules and statutes governing workers' compensation, including for healthcare services. According to Workers Compensation Research Institute, since 2015 total costs per claim with more than 7 days of lost time in Michigan have been stably increasing 1 to 2 % per year on average for claims at 12, 24, 36 and 48 months of experience (pg. 3). Of the components underlying total costs per claim indemnity benefits per claim changed little, with average annual percentage changes ranging from increases of 1 percent per year for claims at 12 months of experience to decreases of 1 percent per year for claims at 48 months of experience. The percentage of claims with lump sum settlements also decreased slightly over that period, while the average lump-sum settlement per claim changed little. Note that among the states in the study with wage-loss benefit systems, Michigan was the only state with stable or decreasing frequency of lump-sum payments per claim from 2013/2016 to 2016/2019, and was the lowest of the 18 study states mainly due to lower than typical costs related to indemnity benefits and medical payments. Medical payments per claim were among the lowest of study states. Michigan also had the lowest costs per all paid claims of the study states. Michigan had the third lowest medical payments per claim of all the study states in 2016/2019 for claims with more than seven days of lost time and 36 months maturity. According to CompScope Medical Benchmarks for Michigan 20th Edition (Monnin-Browder, William. April 2020 pg. 19). The lower medical payments per claim in Michigan resulted from lower-than-typical prices paid for medical services. The lower prices paid in Michigan reflect price regulation.

Workers' Compensation Research Institute (WCRI) study CompScope™ Benchmarks for Michigan, 20th Edition (April 2020 which measured Michigan costs against 18 other states):

The 18 states in the study are Arkansas, California, Florida, Georgia, Illinois, Indiana, Iowa, Louisiana, Massachusetts, Michigan, Minnesota, New Jersey, North Carolina, Pennsylvania, Texas, Tennessee, Virginia, and Wisconsin. According to Workers Compensation Research Institute, since 2015 total costs per claim with more than 7 days of lost time in Michigan have been stably increasing 1 to 2 % per year on average for claims at 12, 24, 36 and 48 months of experience (pg. 3). Of the components underlying total costs per claim indemnity benefits per claim changed little, with average annual percentage changes ranging from increases of 1 percent per year for claims at 12 months of experience to decreases of 1 percent per year for claims at 48 months of experience. The percentage of claims with lump sum settlements also decreased slightly over that period, while the average lump-sum settlement per claim changed little. Note that among the states in the study with wage-loss benefit systems, Michigan was the only state with stable or decreasing frequency of lump-sum payments per claim from 2013/2016 to 2016/2019, and was the lowest of the 18 study states due to lower than typical costs related to indemnity benefits and medical payments. Medical payments per claim were among the lowest of study states. Michigan also had the lowest costs per all paid claims of the study states. Michigan had the third lowest medical payments per claim of all the study states in 2016/2019 for claims with more than seven days of lost time and 36 months maturity. According to CompScope Medical Benchmarks for Michigan 20th Edition (Monnin-Browder, William. April 2020 pg 19). The lower medical payments per claim in Michigan resulted from lower-than-typical prices paid for medical services. The lower prices paid in Michigan reflect price regulation.

Workers' Compensation Research Institute (WCRI) study CompScope™ Benchmarks for Michigan, 20th Edition (April 2020 which measured Michigan costs against 18 other states):

The 18 states in the study are Arkansas, California, Florida, Georgia, Illinois, Indiana, Iowa, Louisiana, Massachusetts, Michigan, Minnesota, New Jersey, North Carolina, Pennsylvania, Texas, Tennessee, Virginia, and Wisconsin.

A. If the rules exceed standards in those states, please explain why and specify the costs and benefits arising out of the deviation.

The rules do not exceed standards in other states. As noted above, each state addresses workers' compensation differently.

3. Identify any laws, rules, and other legal requirements that may duplicate, overlap, or conflict with the proposed rules.

These rules do not duplicate, overlap, or conflict with any other Michigan laws. The HCS rules were written per the Worker's Disability Compensation Act, MCL 418.315 subsection (2) and (3). The Health Care Services Advisory Committee reviews proposed rule changes to make certain that there is no duplication or overlap with other federal, state, or local laws. The committee is comprised of 16 members: one chair; five payer representatives; five provider representatives; and five employee representatives.

A. Explain how the rules have been coordinated, to the extent practicable, with other federal, state, and local laws applicable to the same activity or subject matter. This section should include a discussion of the efforts undertaken by the agency to avoid or minimize duplication.

The rules proposed in this package make technical changes to existing language, add new rule language to address changes in the medical field, and update reimbursement fees in order to maintain consistency with CMS (Medicare) guidelines used by health care providers throughout the country.

4. If MCL 24.232(8) applies and the proposed rules are more stringent than the applicable federally mandated standard, provide a statement of specific facts that establish the clear and convincing need to adopt the more stringent rules.

MCL 24.232(8) does not apply to the proposed rules, as these rules do not exceed federal standards.

5. If MCL 24.232(9) applies and the proposed rules are more stringent than the applicable federal standard, provide either the Michigan statute that specifically authorizes the more stringent rules OR a statement of the specific facts that establish the clear and convincing need to adopt the more stringent rules.

These rules do not exceed federal standards.

Purpose and Objectives of the Rule(s)

6. Identify the behavior and frequency of behavior that the proposed rules are designed to alter.

Michigan's HCS rules are updated annually to provide cost containment for medical services within the workers' compensation arena, and to clarify billing and reimbursement procedures where necessary for all involved parties, especially payers and providers. Many of the fees are based on Medicare rates plus a percentage above. The approach taken has resulted in Michigan workers' compensation medical costs per case, and subsequent overall total claim costs, being lower to lowest compared to regional study states. These rules are not designed to alter behavior as much as they are meant to provide ongoing guidance and consistency to providers and payers, as the rules have done for more than 30 years.

A. Estimate the change in the frequency of the targeted behavior expected from the proposed rules.

Workers' Compensation HCS rules use standardized coding methods, the agency has found that both providers and payers alike benefit from annual updates and having current information available for their use. We expect behavior to remain consistent with previous years as providers and payers alike are very familiar with the Health Care Service rule update process.

B. Describe the difference between current behavior/practice and desired behavior/practice.

This rule set impacts payer communities, medical providers, medical practitioners, service companies, bill review companies, and injured workers, which total more than 200,000 entities. All of these entities anticipate HCS rule updates.

C. What is the desired outcome?

The overall desired outcome with these specific rule changes is to provide for standardized billing and payment practices within the Michigan workers' compensation arena. Ultimately, by creating a standardized fee schedule at reasonable reimbursement rates for practitioners at or just above 130% of Medicare payouts, the rules strive to maintain or improve injured workers' access to appropriate medical care, while keeping costs to businesses as low as possible.

7. Identify the harm resulting from the behavior that the proposed rules are designed to alter and the likelihood that the harm will occur in the absence of the rule.

The HCS rules are revised annually (MCL 418.315(2)) to maintain consistency with the determinations made each year by the Center for Medicare & Medicaid Services (CMS). Harm could occur from failure to update the current rules, as they would not be consistent with national reimbursement rates set by CMS. This could impact reimbursement rates for providers, negatively impact access to care for injured workers, and increase costs to businesses. Being consistent with CMS rates allows the Workers' Compensation Health Care Services division to avoid the costs of independently researching and compiling the statistical data necessary for developing reimbursement figures. As a direct result of the Health Care Services approach taken here in Michigan, workers' compensation medical costs are highly competitive compared to surrounding states.

A. What is the rationale for changing the rules instead of leaving them as currently written?

The HCS rules must be updated to maintain consistency with the determinations made each year by the Center for Medicare & Medicaid Services (CMS). All of the involved entities within the workers' compensation medical benefit community anticipate HCS rule updates. In addition per Sec. 989 of Dept of Labor and Economic Opportunity Annual Budget Process, It is the legislature's intent that the workers' compensation agency, through the department of labor and economic opportunity, annually update its health care services rules, R 418.10101 – 418.101504, as required by sections 205 and 315 of the worker's disability compensation act, 1969 PA 317, MCL 418.205 and 418.315, and section 33 of the administrative procedures act, 1969 PA 306, MCL 24.233.

8. Describe how the proposed rules protect the health, safety, and welfare of Michigan citizens while promoting a regulatory environment in Michigan that is the least burdensome alternative for those required to comply.

There are no viable alternatives to the HCS rules. If the rules were not in place, there would be unchecked inflation of reimbursement for medical services provided to injured workers, adversely affecting business due to increased costs for workers' compensation. If the healthcare industry were to render services without government-mandated, maximum allowable fees, there would be little, if any, motivation for providers to contain costs. Without cost-containment, the fees charged for services would escalate. Updating the rules to use the most current CMS Relative Value Units (RVU) will result in no increase in the conversion factor resulting in no increase in reimbursements for the Top 50 most frequently utilized Current Procedure Terminology (CPT) codes. Overall though, the proposed changes maintain reimbursement rate levels for the most frequent CPT codes at or slightly above 130% of Medicare rates. This balances between the interests businesses/payers who prefer lower medical costs, with the interests of medical professionals who favor increased reimbursement rates. Ultimately, the Agency's goal is a balanced system that ensures reasonable reimbursement rates, cost containment, and above all, access to appropriate care for Michigan's injured workers.

9. Describe any rules in the affected rule set that are obsolete or unnecessary and can be rescinded.

No rules are rescinded with this rule set update.

Fiscal Impact on the Agency

Fiscal impact is an increase or decrease in expenditures from the current level of expenditures, i.e. hiring additional staff, higher contract costs, programming costs, changes in reimbursements rates, etc. over and above what is currently expended for that function. It does not include more intangible costs for benefits, such as opportunity costs, the value of time saved or lost, etc., unless those issues result in a measurable impact on expenditures.

10. Please provide the fiscal impact on the agency (an estimate of the cost of rule imposition or potential savings for the agency promulgating the rule).

The proposed rule changes are expected to be cost neutral to the agency. Since the rules and fee charts are available through the internet, there is no publication cost other than routine web posting, which is done by existing staff.

Agency customers can access fee schedule information without charge.

11. Describe whether or not an agency appropriation has been made or a funding source provided for any expenditures associated with the proposed rules.

There are no expenditures specifically associated with these proposed rules. Existing staff is sufficient to handle the changes.

12. Describe how the proposed rules are necessary and suitable to accomplish their purpose, in relationship to the burden(s) the rules place on individuals. Burdens may include fiscal or administrative burdens, or duplicative acts.

As stated above, the Workers' Compensation Agency HCS rules are revised annually to maintain consistency with the determinations made each year by the Center for Medicare & Medicaid Services (CMS). Creating a system for Michigan that would be significantly different than the national CMS standards would increase costs for billing, payment, and could impose more burden on Agency staff. By being consistent with CMS, Workers' Compensation Health Care Services avoids the cost of researching and compiling this data. Transitioning to a new process for reimbursement would create implementation and financial burdens on insurance carriers and medical providers who are the primary users of the fee schedule created by the Agency. Ultimately, their ability to process medical payments in a timely fashion would limit access to care for injured workers.

A. Despite the identified burden(s), identify how the requirements in the rules are still needed and reasonable compared to the burdens.

There are no identified burdens.

Impact on Other State or Local Governmental Units

13. Estimate any increase or decrease in revenues to other state or local governmental units (i.e. cities, counties, school districts) as a result of the rule. Estimate the cost increases or reductions for other state or local governmental units (i.e. cities, counties, school districts) as a result of the rule. Include the cost of equipment, supplies, labor, and increased administrative costs in both the initial imposition of the rule and any ongoing monitoring.

The rules themselves provide no additional operational costs for any of the entities outlined in Question 11. Impact on specific claims is a case by case analysis. Since the cost containment rules have historically kept claim medical costs low, the continued updating and application of the rules will benefit government unit budgets by maintaining or reducing claim costs. There are no anticipated increased revenues resulting from these rules.

14. Discuss any program, service, duty, or responsibility imposed upon any city, county, town, village, or school district by the rules.

There are no anticipated program, service, or duty responsibilities imposed upon these types of entities, other than what is expected from any carrier or self-insured employer when managing workers' compensation claims. All providers, carriers, and self-insured employers are to follow the HCS rules when billing and paying medical claims, and report annual medical claim costs online, as they have for years prior.

A. Describe any actions that governmental units must take to be in compliance with the rules. This section should include items such as record keeping and reporting requirements or changing operational practices.

There are no anticipated changes to existing program, service, or duty responsibilities imposed upon governmental units.

15. Describe whether or not an appropriation to state or local governmental units has been made or a funding source provided for any additional expenditures associated with the proposed rules.

There is no appropriation needed for additional expenditures for this rule set.

Rural Impact

16. In general, what impact will the rules have on rural areas?

This rule set does not specifically impact or target rural areas.

A. Describe the types of public or private interests in rural areas that will be affected by the rules.

There is no anticipated impact on public or private interests in rural areas.

Environmental Impact

17. Do the proposed rules have any impact on the environment? If yes, please explain.

The proposed rules do not have any environmental impact.

Small Business Impact Statement

18. Describe whether and how the agency considered exempting small businesses from the proposed rules.

Once an employer meets the requirements for coverage under the Act, there are no exemptions related to the size of the business. Workers' compensation insurance premiums are based in significant part on claims experience and payroll so keeping overall premium costs down through medical cost containment benefits businesses of all sizes.

There is no disproportionate impact on small businesses. It is not feasible to mandate the exemption for small businesses since the rates for medical costs are determined by the Current Procedural Terminology Code (CPT Code) for the treatment in question, not by the size of the business where the injury occurred.

19. If small businesses are not exempt, describe (a) the manner in which the agency reduced the economic impact of the proposed rules on small businesses, including a detailed recitation of the efforts of the agency to comply with the mandate to reduce the disproportionate impact of the rules upon small businesses as described below (in accordance with MCL 24.240(1)(a-d)), or (b) the reasons such a reduction was not lawful or feasible.

The rules apply to medical procedures and their corresponding charges. There is no way to vary the payment for such services in relation to the size of the employer. This would be unfair to the medical provider since the cost of treating an injury or illness does not vary in relation to the size of the business where the injury/illness occurred.

A. Identify and estimate the number of small businesses affected by the proposed rules and the probable effect on small businesses.

There are over 230,000 businesses in Michigan privately covered by workers' compensation insurance. An additional 10,000 employers are classified as self-insured. Also affected are 200 plus insurance carriers, 400 individual and group self-insured carriers, 26 service companies and 45 bill review entities. The rules will also impact medical providers, medical practitioners, and facilities, which include over 200,000 entities. The size of the health care providers from a business perspective cannot be readily determined. Not only does the agency not have any information about the size of medical providers, health care is often delivered in complicated business structures such as hospitals where the emergency physicians might have an independent small business corporate structure separate from the large business structure of the hospital in which they practice. There is also no identifiable direct cost impact on small businesses as a result of these rule updates. However, as mentioned in question (2), the latest CompScope Medical Benchmarks for Michigan 20th Edition (Monnin-Browder, William 2020 pg 27. indicates that Michigan has among the lowest medical payments per claim total claim and medical costs across 18 study states. There is no doubt that Michigan's reimbursement fee schedule has a definite impact on these costs, and it can be surmised that small businesses are positively impacted by this.

B. Describe how the agency established differing compliance or reporting requirements or timetables for small businesses under the rules after projecting the required reporting, record-keeping, and other administrative costs.

The Workers' Compensation Agency did not and cannot establish differing compliance or reporting requirements for small businesses. There is neither statutory authority, nor any practical way, to make such a distinction.

C. Describe how the agency consolidated or simplified the compliance and reporting requirements for small businesses and identify the skills necessary to comply with the reporting requirements.

The Workers' Compensation Agency has made an online reporting system for the Annual Medical Reporting System (WC406) and the Professional Review Company certification (WC590) available to carriers, including individual and group self-insured employers, service companies and bill review entities. The reporting system also notifies all affected parties via email as report deadlines near, which simplifies compliance. This will serve to reduce business cost for all reporting entities. The agency's data system is undergoing major upgrading that will facilitate lower cost electronic reporting.

D. Describe how the agency established performance standards to replace design or operation standards required by the proposed rules.

The standards for annual reporting of medical payments did not change, but the reporting system has been made available online, saving significant paper handling. The Agency established the online reporting system and required the carriers, providers, and service companies use this system to replace the antiquated hard copy reporting system for the WC590 and the WC406. The Agency continues to look for ways to enhance usability for its customers as we design a new workers' compensation data management system, which will integrate the current online system and allow a portal for easier reporting.

20. Identify any disproportionate impact the proposed rules may have on small businesses because of their size or geographic location.

The Workers' Compensation Fee Schedule has no disproportionate impact on small businesses due to the size or location of the business.

21. Identify the nature of any report and the estimated cost of its preparation by small businesses required to comply with the proposed rules.

There are only two required forms/reports, which are primarily handled by the payers, not small businesses:

1. The Professional Health Care Review Program certification (WC590) that requires payers to identify the name of the company that handles the bill review process.
2. The Annual Medical Payment Report (WC406) that requires payers to provide total dollar figures for medical payments on claims.

There is no expected increase or decrease in estimated cost associated with the submission of this form for small businesses, as insurance carriers are currently performing this activity.

22. Analyze the costs of compliance for all small businesses affected by the proposed rules, including costs of equipment, supplies, labor, and increased administrative costs.

The rule changes do not specifically require any additional reports, equipment, labor or increase administrative cost. Overall, the HCS rules, fee schedule, manual, and online reporting system are available at no charge on the Workers' Disability Compensation Agency's website. The Agency provides ongoing information for providers, carriers and employees. The Health Care Services Division distributes informational materials and conducts periodic training sessions. By containing and managing medical reimbursement rates, overall business costs are reduced.

23. Identify the nature and estimated cost of any legal, consulting, or accounting services that small businesses would incur in complying with the proposed rules.

There are no anticipated legal, consulting, accounting or administrative costs associated with these rules.

24. Estimate the ability of small businesses to absorb the costs without suffering economic harm and without adversely affecting competition in the marketplace.

Almost all Michigan businesses are required to carry workers' compensation insurance through a licensed insurance company or be approved for individual or group self-insurance depending on statutorily defined criteria. The insurance carrier has the responsibility to apply the rules to its handling of claims. Small businesses have no additional costs for administration. Based upon the information available, the agency believes that the workers' compensation insurance rates are competitive for small businesses.

25. Estimate the cost, if any, to the agency of administering or enforcing a rule that exempts or sets lesser standards for compliance by small businesses.

The rules provide a cost containment system to decrease workers' compensation costs for businesses while maintaining access to care. Creation and implementation of a multi-tier fee schedule based upon employer business size would be costly to create and administer thereby increasing agency costs.

26. Identify the impact on the public interest of exempting or setting lesser standards of compliance for small businesses.

These rules do not directly affect small businesses. This cost containment system helps to reduce premiums for workers' compensation insurance, which ultimately helps small businesses. Setting lower medical payment rates based on the size of the employer would serve only to impair the availability of medical services to injured workers mainly because medical professionals would decline workers' comp cases from smaller businesses. Many of these businesses might also be in rural areas. Subsequently, we would see longer claim duration and increased employee work absence, resulting in adverse impact on business operations. Furthermore, there is no compelling reason to set lesser standards or exempt small businesses because there are no additional costs associated with these rule changes.

27. Describe whether and how the agency has involved small businesses in the development of the proposed rules.

The HCS rules are established per the Workers' Disability Compensation Act, MCL 418.315 subsection (2) and (3). The Health Care Services Advisory Committee reviews the rules and advises the agency on industry issues and potential need for rule updating or rescission. The committee is comprised of 16 members: one chair; five payer representatives; five provider representatives; and five employee representatives. The payer representatives include a representative from one of the major group funds, which is composed of different retail hardware stores of varying business size. Several of the medical providers are small business owners themselves. Since small businesses are insured through insurance companies and insurance companies are represented on the Workers' Compensation Advisory Committee, small businesses are indirectly represented on the committee by their insurance companies. Finally, Workers' Compensation Advisory Committee meetings are open to the public, and agency staff holds periodic informational sessions with small groups upon invitation or request.

A. If small businesses were involved in the development of the rules, please identify the business(es).

See below the list of small businesses that are specifically represented by the advisory committee members:

- Rapaport, Pollack, Farrell, and Waldron P.C.
- J. Trucks and Associates P.C.
- Waverly Chiropractic Center
- Benchmark Health
- Northern Physical Therapy
- Michigan Assn. of Chiropractors
- Operating Engineers 324
- UAW

Cost-Benefit Analysis of Rules (independent of statutory impact)

28. Estimate the actual statewide compliance costs of the rule amendments on businesses or groups.

There are no significant, additional costs for compliance with the rule amendments above that which businesses and groups are accustomed to from previous amendments.

A. Identify the businesses or groups who will be directly affected by, bear the cost of, or directly benefit from the proposed rules.

The rules impact all 200 plus carriers, 400 individual and group self-insured employers, 26 service companies, and 45 bill review entities.

B. What additional costs will be imposed on businesses and other groups as a result of these proposed rules (i.e. new equipment, supplies, labor, accounting, or recordkeeping)? Please identify the types and number of businesses and groups. Be sure to quantify how each entity will be affected.

There are no additional costs identified.

29. Estimate the actual statewide compliance costs of the proposed rules on individuals (regulated individuals or the public). Include the costs of education, training, application fees, examination fees, license fees, new equipment, supplies, labor, accounting, or recordkeeping.

The rules are not expected to impose increased costs on individuals, including the costs of education, training, application and examination fees, license fees, new equipment, increased labor, or require ongoing monitoring.

A. How many and what category of individuals will be affected by the rules?

All workers' compensation payers, medical providers, and employees who suffer workplace injuries will be affected in some way depending on their position within the workers' compensation system.

B. What qualitative and quantitative impact do the proposed changes in rules have on these individuals?

The Agency's mission is to efficiently administer the Act and provide prompt, courteous and impartial service to all customers. Its ongoing goal is to provide a fair payment and reimbursement system for payers and providers and maintain or enhance access to quality healthcare for injured workers. The Agency strives to fulfill this mission and goal each time it updates the HCS ruleset. In another WCRI study by Savych and Thumula (2017), Comparing Outcomes for Injured Workers in Michigan, 2016 Interviews, Michigan results were similar to other study states on satisfaction with overall medical care, and access to desired medical services and providers. And of the reasons surveyed, less than 5% of those polled indicated that access to care was due to a medical professional not taking workers' compensation patients. Michigan has also experienced a combined decrease in the "pure premium" rate of 39% over the last 7 years, saving Michigan employers approximately \$390 Million.

30. Quantify any cost reductions to businesses, individuals, groups of individuals, or governmental units as a result of the proposed rules.

There are no expected direct cost reductions as a result of this proposed rule set. Employers typically see their savings on the insurance side based on experience ratings and lower premiums, as well as through enhanced safety and ergonomic measures, thereby decreasing claims and associated costs. Insurers may be able to reduce costs depending on the variances in the fee schedule percentages, and through development of provider networks. Overall, utilizing a medical care fee schedule allows providers and insurers the ability to maintain balance in the reimbursement process.

31. Estimate the primary and direct benefits and any secondary or indirect benefits of the proposed rules. Please provide both quantitative and qualitative information, as well as your assumptions.

The proposed rules support business competitiveness, and worker safety, since these rules will continue to control the workers' compensation health care costs for injured Michigan workers while maintaining reasonable reimbursement rates for practitioners at or above 130% of Medicare payouts, and maintaining or improving an injured worker's access to medical care. Because the proposed rules update practitioner reimbursement rates, they will not adversely impact the business community. By annually updating the relative value information and conversion factors, the provider and payer community can be assured that the fee structure is following standards that reimburse at a reasonable rate for the services while containing medical costs. The Workers' Compensation Agency understands the importance of keeping medical costs affordable for Michigan employers, but must also balance that against access to quality care for the injured worker.

32. Explain how the proposed rules will impact business growth and job creation (or elimination) in Michigan.

The Workers' Compensation Agency Health Care Services regulates the cost of medical treatment rendered to injured workers under the Workers' Disability Compensation Act. The cost containment rules serve a valuable function in managing health care costs while maintaining access to care. The HCS fee schedule helps to promote business growth and ultimately job creation by reducing overall Workers' Compensation costs and insurance premiums. Again, Michigan has also experienced a combined decrease in the "pure premium" rate of 49% over the last 8 years, saving Michigan employers approximately \$492 Million.

33. Identify any individuals or businesses who will be disproportionately affected by the rules as a result of their industrial sector, segment of the public, business size, or geographic location.

Medical costs per case are dictated by the individual needs of the injured worker after the injury occurs. None of the factors raised in this question impact on the treatment needs of a given injured worker.

34. Identify the sources the agency relied upon in compiling the regulatory impact statement, including the methodology utilized in determining the existence and extent of the impact of the proposed rules and a cost-benefit analysis of the proposed rules.

The Michigan Workers' Compensation fee schedule uses the Center for Medicaid and Medicare Services (CMS) methodology as the foundation for determining the State's workers' compensation medical service fees. The Agency also relies upon The Health Care Services Advisory Committee, which includes external members representing payers, providers and injured workers, and external research from sources such as the Workers' Compensation Research Institute (WCRI). For example, comparative studies from WCRI demonstrate that benefit delivery expenses per claim in Michigan were 28% lower than the 18-state median for 2016/2019 claims. Lower benefit delivery expenses were driven by lower medical cost containment expenses CompScope Medical Benchmarks for Michigan 20th Edition (Monnin-Browder, William2020) pg 27 indicates that Michigan has among the lowest medical payments per claim total claim and medical costs across 18 study states.

A. How were estimates made, and what were your assumptions? Include internal and external sources, published reports, information provided by associations or organizations, etc., that demonstrate a need for the proposed rules.

The Health Care Services Advisory Committee provides input into the conversion factor percentage, utilizing statistical data obtained from various sources including Amerisure, and one of the largest carriers in this state, The Accident Fund Insurance Company of America. Medical payment data is also obtained from two of the largest self-insured employers, General Motors and Ford Motor Company. The statistical data is from the top 50 most used Current Procedure Terminology Codes (CPT Codes). The Advisory Committee determines a modifier, called a conversion factor, so the fee schedule rate can be adjusted by a percentage over CMS to ensure we meet the needs of Michigan employers, carriers and injured workers. The purpose of the conversion factor is to adjust the rates so that the providers are compensated at a satisfactory level, and the injured worker maintains access to care at a reasonable cost to the employer/carrier.

Alternative to Regulation

35. Identify any reasonable alternatives to the proposed rules that would achieve the same or similar goals.

There are no other reasonable alternatives to this proposed rule set. The State of Michigan uses CMS methodology because it provides a long-established fair and standardized method of reimbursement for Michigan providers. Implementing a new system would place undue burdens due to budgetary restraints on the Agency, and potentially require higher staffing levels. The Michigan approach has served as a model for other states.

A. Please include any statutory amendments that may be necessary to achieve such alternatives.

No statutory amendments are needed at this time.

36. Discuss the feasibility of establishing a regulatory program similar to that proposed in the rules that would operate through private market-based mechanisms. Please include a discussion of private market-based systems utilized by other states.

There is minimal cost to the State of Michigan for the system now in place. Health Care Services has one medical analyst and a division manager that, in addition to Health Care, oversees multiple units. The Advisory Committee is an unpaid committee of volunteers. The major source of the fee schedule is CMS, which provides the information without charge. Creating a separate system, in any way different from the nationally accepted CMS schedule would only serve to increase costs to medical providers and payers who are familiar with the CMS and Michigan models.

37. Discuss all significant alternatives the agency considered during rule development and why they were not incorporated into the rules. This section should include ideas considered both during internal discussions and discussions with stakeholders, affected parties, or advisory groups.

There are no significant alternatives to the Health Care Services Rules. The Michigan system is already a model for other state fee systems due to consistently maintaining reasonable medical costs while maintaining access to care.

These proposed changes provide technical language changes, and update/enhance existing rule language based on changes in the medical field or provide for consistency with federal guidelines.

Additional Information

38. As required by MCL 24.245b(1)(c), please describe any instructions regarding the method of complying with the rules, if applicable.

Detailed instructions are found on the Agency's website at - www.michigan.gov/wdca.