

Steve Sisolak  
Governor

Richard Whitley, MS  
Director



## DEPARTMENT OF HEALTH AND HUMAN SERVICES

AGING AND DISABILITY SERVICES DIVISION  
*Helping people. It's who we are and what we do.*



Dena Schmidt  
Administrator

August 25, 2022

Legislative Counsel Bureau  
Attention Angela Hartzler  
401 South Carson St.  
Carson City, NV 89701

*Via Email*

### SMALL BUSINESS IMPACT STATEMENT NRS 233B.066 LCB FILE R101-19

The following small business impact statement is submitted for adopted amendments to Nevada Administrative Code (NAC) Chapter 439B.

**1. A description of the manner in which comment was solicited from affected small businesses, a summary of their responses, and an explanation of the manner in which other interested persons may obtain a copy of the summary.**

A Small Business Impact Survey was posted to the Aging and Disability Services Division website along with a copy of the proposed regulation changes, in January 2020 and November 2021. Questions on the survey were:

- 1) How many employees are currently employed by your business?
- 2) Will a specific regulation have an adverse economic effect upon your business?
- 3) Please list each regulation and explain the impact
- 4) Will the regulation(s) have any beneficial effect upon your business?
- 4) Do you anticipate any indirect adverse effects upon your business?
- 5) Do you anticipate any indirect beneficial effects upon your business?

\*See attached Small Business Impact Surveys, signed and certified by Aging and Disability Administrator, Dena Schmidt, Administrator, for summary of response.

Other persons may obtain a copy of this small business impact study, or other public comments by visiting <https://adsd.nv.gov/Programs/regulations/>, or contacting Agnes Francis at [afrancis@adsd.nv.gov](mailto:afrancis@adsd.nv.gov).

## **2. The manner in which the analysis was conducted.**

The responses to the Small Business Impact Surveys were carefully reviewed and considered by the Office for Consumer Health Assistance (OCHA) regarding the likely impact of the proposed regulation on small businesses.

## **3. The estimated economic effect of the proposed regulation on the small businesses which it is to regulate including, without limitation:**

### **(a) Both adverse and beneficial effects; and**

*Adverse effects:* Small businesses disputing a claim in the amount of \$5,000 or more must follow the arbitration process and procedures set forth by the American Arbitration Association or JAMS.

Small businesses have the additional requirements of submitting the request for arbitration in the timeframes specified in the revised proposed regulation. If a small business misses the timeframe to submit the request for arbitration, the claim is ineligible for arbitration. This would create an adverse effect on the small businesses' ability to arbitrate a claim for a medically necessary emergency service provided out-of-network.

If a request for arbitration application is not complete and clear, a request for additional information is sent to the small business. The small business has 10 business days to submit the additional information requested to the Department or the application is deemed incomplete.

The small business may experience an adverse effect of time and effort spent producing reports due by December 31 of each year.

*Beneficial effects:* Small businesses have the benefit of being able to submit the request for arbitration within 30 business days from the date the third-party refused to pay the request for additional amount or failed to pay the request for additional amount.

Within 10 days of receiving the notice for arbitration, small businesses are provided a list of five arbitrators. Small businesses are given the opportunity to strike two names off the list of arbitrators and provide the name or names of remaining arbitrators to the Department.

### **(b) Both direct and indirect effects.**

*Direct effects:* Upon passage of the proposed regulation, the direct effects the regulation will have on small business is the time and effort needed to produce relevant information in the timeframes specified in the regulation.

Upon passage of the proposed regulation, the direct effect the regulation will have on small businesses is the inability to collect copayment, coinsurance or deductible that the coverage requires the covered person to pay for the services until the arbitration is determined.

*Indirect effects:* Upon passage of the proposed regulation, an indirect effect the regulation may have on small businesses is the possible necessity to create new business processes in order to align with timeframes and reporting requirements specified in regulation.

**4. A description of the methods that the agency considered to reduce the impact of the proposed regulation on small businesses and a statement regarding whether the agency actually used any of those methods. See NRS 233B.0608(2)(b).**

The method considered and used to reduce the impact of the proposed regulation on small businesses included simplifying the proposed regulation.

**5. The estimated cost to the agency for enforcement of the proposed regulation.**

The additional cost to the agency for enforcement of this regulation is estimated to be \$257,700 per year.

**6. If the proposed regulation provides a new fee or increases an existing fee, the total annual amount the agency expects to collect, and the manner in which the money will be used.**

The regulation does not provide a new fee or increase an existing fee.

**7. If the proposed regulation includes provisions which duplicate or are more stringent than federal, state, or local standards regulating the same activity, an explanation of why such duplicative or more stringent provisions are necessary.**

There are no other state or government agency regulations that the proposed regulation duplicates.

**8. The reasons for the conclusions of the agency regarding the impact of the regulation on small businesses.**

The reasons for the conclusions of the agency regarding the impact of the regulation on small businesses are based on adverse and beneficial effects, both direct and indirect, which include input from the small business impact survey and public comments received during public workshops. Based on this input, the regulation was revised in order to reduce the impact of regulation on small businesses.

Please direct any inquiries to Carrie Embree, Governor's Consumer Health Advocate, at [clembree@adsd.nv.gov](mailto:clembree@adsd.nv.gov). Thank you.

Pursuant to NRS 233.B.0608 (3), the Director of the Department of Health and Human Services has reviewed this Small Business Impact Study and is certifying that, to the best of his knowledge or belief, a concerted effort was made to determine the impact of the proposed regulation on small businesses and that the information contained in the statement is accurate.



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Richard Whitley

Director, Department of Health and Human Services



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Date