# Regulatory Analysis Form

This space for use by IRRC

99 JUL 28 PM 12:07

REVIEW COMMISSION

Mizner

(1) Agency
Pennsylvania Health Care Cost Containment Council

(2) I.D. Number (Governor's Office Use)
Agency Number: 100

IRRC Number: 1995

(3) Short Title
Severity Methodology

(4) PA Code Cite
28 PA CODE CH.912

(5) Agency Contacts & Telephone Numbers

Primary Contact: Flossie Wolf

Secondary Contact: Cherie Kauffman

(6) Type of Rulemaking (check one)

☒ Proposed Rulemaking
☐ Final Order Adopting Regulation
☐ Final Order, Proposed Rulemaking Omitted

(7) Is a 120-Day Emergency Certification Attached?

☒ No
☐ Yes: By the Attorney General
☐ Yes: By the Governor

(8) Briefly explain the regulation in clear and nontechnical language.

Subsection 5(d)(4) of the Health Care Cost Containment Act (Act) (35 P.S. § 449.5(d)) directs the Health Care Cost Containment Council (Council) to "[a]dopt and implement a methodology to collect and disseminate data reflecting [health care] provider service effectiveness pursuant to section 6 and continuously study quality of care systems."

Subsection 6(d) of the Act (35 C.S. § 449.6(d)) permits the Council to "[a]dopt a nationally recognized methodology of quantifying and collecting the data ..." In 1987 the Council carefully reviewed available measurement systems and selected the MedisGroups methodology offered by MediQual Systems, Inc. because it was the most effective system to meet the requirements of the Act. In 1988, the MedisGroups methodology was incorporated into the Council's regulations. The MedisGroups system uses data abstracted from individual patient records from all providers covered under the Act and calculates the patient's severity of illness upon admission to a hospital and the patient's morbidity.

Since 1987, there have been improvements in the systems offered by MediQual and other vendors. The Council would like to have the flexibility to utilize a different vendor if it appears that a more effective and economical system is available. It also gives the council the opportunity to seek another vendor and/or methodology if MediQual fails to meet its contract requirements.

## Regulatory Analysis Form

(9) State the statutory authority for the regulation and any relevant state or federal court decisions.

The Health Care Cost Containment Act, Act 89 of 1986 (P.L. 408, No. 89) amended by Act 1993-34 (P.L. 783, No.123).

(10) Is the regulation mandated by any federal or state law or court order, or federal regulation? If yes, cite the specific law, case or regulation, and any deadlines for action.

The Health Care Cost Containment Act, Act 89 of 1986 (P.L. 408, No. 89) amended by Act 1993-34 (P.L. 783, No.123).

(11) Explain the compelling public interest that justifies the regulation. What is the problem it addresses?

As indicated in Section 2 of the Act (35 C..S. § 449.2), the data on health care provider effectiveness, as well as the other information required by the Act is designed "[t]o promote the public interest by encouraging the development of competitive health care services..." Through competition, health care providers will be induced to provide quality, cost-effective care. For example, in selecting health care providers for their employee benefit plans, employers have used the data to determine which providers are likely to provide the highest quality care at cost-effective rates.

The current regulation specifies a particular methodology to evaluate the effectiveness of patient care. That methodology was selected based on available systems in 1987. By specifying a particular methodology, the Council is precluded from selecting a different vendor and/or methodology that may be more effective and economical in the future.

(12) State the public health, safety, environmental or general welfare risks associated with nonregulation.

Not applicable. Required by statute.

## Regulatory Analysis Form

(13) Describe who will benefit from the regulation. (Quantify the benefits as completely as possible and approximate the number of people who will benefit.)

Approximately 200 health care providers compile and code data on approximately 1.3 million inpatient records under the MedisGroup system each year. Two of the Council's ongoing objectives are to make data collection more effective and to potentially reduce the costs incurred by the reporting providers. Consequently, if the Council elected to adopt a different methodology and/or vendor, the cost of compliance would be a principal consideration.

If an alternate methodology provides better information on the effectiveness of health care providers, all Pennsylvania residents, their insurance companies and/or their employers could make better choices on selecting providers. Improved information on the health care market should spawn a more competitive market which should improve the quality of care at a lower cost.

(14) Describe who will be adversely affected by the regulation. (Quantify the adverse effects as completely as possible and approximate the number of people who will be adversely affected.)

If another vendor were selected, MediQual would loose the business associated with meeting the requirements of the Act in Pennsylvania.

(15) List the persons, groups or entities that will be required to comply with the regulation. (Approximate the number of people who will be required to comply.)

Approximately 200 hospitals are required to submit data under the MedisGroups system.

(16) Describe the communications with and input from the public in the development and drafting of the regulation. List the persons and/or groups who were involved, if applicable.

The Council was responsible for drafting the proposed amendment. The Council is comprised of six business representatives, six labor representatives, the Secretary of Health, Secretary of Public Welfare, Insurance Commissioner, and one representative from each of the following groups: Blue Cross Blue Shield, hospitals, physicians, commercial insurers, managed care entities, and consumers.

The proposed regulation was reviewed and approved by the Council at a public meeting.

(17) Provide a specific estimate of the costs and/or savings to the regulated community associated with compliance, including any legal, accounting or consulting procedures which may be required.

Hospitals incur costs associated with collecting data using the MedisGroups system. The proposed amendment would give the Council the flexibility to choose an alternative system, which has the potential to reduce the hospitals' costs of compliance. It is unlikely that the Council would choose a methodology that costs more than MedisGroups without significant enhancements in the quality and timeliness of the data.

(18) Provide a specific estimate of the costs and/or savings to local governments associated with compliance, including any legal, accounting or consulting procedures which may be required.

Local governments could realize lower medical insurance premiums for the health care provided to their employees if this regulation results in better market information and a more competitive health care market.

## Regulatory Analysis Form

(19) Provide a specific estimate of the costs and/or savings to state government associated with the implementation of the regulation, including any legal, accounting, or consulting procedures which may be required.

The Council itself incurs minimal fees with the MedisGroups system. It is not likely the Council would select a methodology that would significantly increase its costs without a significant improvement in the timeliness and quality of the data.

Data collected by the hospitals under the MedisGroups system is categorized into "scores" and then sent to the Council by MediQual Systems, Inc. The Council dedicates staff resources to manage and evaluate the data it receives from MediQual. Approximately 1% of the Council's budget is dedicated to this component of our activities.

(20) In the table below, provide an estimate of the fiscal savings and costs associated with implementation and compliance for the regulated community, local government, and state government for the current year and five subsequent years.

| | Current FY Year | FY +1 Year | FY +2 Year | FY +3 Year | FY +4 Year | FY +5 Year |
|---|---|---|---|---|---|---|
| **SAVINGS:** | $ | $ | $ | $ | $ | $ |
| **Regulated Community** | | | | | | |
| **Local Government** | | | | | | |
| **State Government** | | | | | | |
| **Total Savings** | | | | | | |
| **COSTS:** | | | | | | |
| **Regulated Community** | | | | | | |
| **Local Government** | | | | | | |
| **State Government** | | | | | | |
| **Total Costs** | | | | | | |
| **REVENUE LOSSES:** | | | | | | |
| **Regulated Community** | | | | | | |
| **Local Government** | | | | | | |
| **State Government** | | | | | | |
| **Total Revenue Losses** | | | | | | |

## Regulatory Analysis Form

(20a) Explain how the cost estimates listed above were derived.

**SAVINGS**: There are no savings estimates provided because the Council is not currently contemplating switching to another methodology or vendor.

**COSTS:** There are no increased costs associated with this proposed regulation.

**REVENUE LOSSES**: There will be no revenue losses directly associated with this regulation.

(20b) Provide the past three year expenditure history for programs affected by the regulation.

| Program | FY -3 | FY -2 | FY -1 | Current FY |
|---|---|---|---|---|
| Council's costs in managing and evaluating MedisGroups data | $35,402 | $33,833 | $33,050 | $34,920 |
| | | | | |
| | | | | |

(21) Using the cost-benefit information provided above, explain how the benefits of the regulation outweigh the adverse effects and costs.

Since the Council is not contemplating the selection of a new methodology or vendor at this time, there are no projected changes in the cost to comply with Section 6 of the Act.

(22) Describe the nonregulatory alternatives considered and the costs associated with those alternatives. Provide the reasons for their dismissal.

The only means to reach the Council's objective is to remove the specific methodology name from Chapter 912 of the Council's regulations.

## Regulatory Analysis Form

(23) Describe alternative regulatory schemes considered and the costs associated with those schemes. Provide the reasons for their dismissal.

The only means to reach the Council's objective is to remove the specific methodology name from Chapter 912 of the Council's regulation.

(24) Are there any provisions that are more stringent than federal standards? If yes, identify the specific provisions and the compelling Pennsylvania interest that demands stronger regulation.

There are no federal standards.

(25) How does this regulation compare with those of other states? Will the regulation put Pennsylvania at a competitive disadvantage with other states?

Other states which collect similar data as required by Section 6 of the Act have the flexibility to choose a methodological system. Most care provided by Pennsylvania hospitals is rendered to Pennsylvania residents. Usually, the care that is provided to out-of-state residents is typically for very severe illnesses for which the hospital has a special capability. The minimal per patient-cost that Section 6 of the Act imposes on each admission will not be a factor in a patient's decision to seek care in a Pennsylvania hospital. The provisions of Section 6 of the Act are designed to improve patient care and reduce costs which should make Pennsylvania hospitals more viable.

(26) Will the regulation affect existing or proposed regulations of the promulgating agency or other state agencies? If yes, explain and provide specific citations.

No.

(27) Will any public hearings or informational meetings be scheduled? Please provide the dates, times, and locations, if available.

No. When the Council begins to explore other vendors and methodologies, it is then very likely to hold informational sessions with the regulated community.

| Regulatory Analysis Form |
| --- |
| (28) Will the regulation change existing reporting, record keeping, or other paperwork requirements? Describe the changes and attach copies of forms or reports which will be required as a result of implementation, if available.<br><br>Not at this time. If the Council chooses an alternative vendor and methodology, reporting requirements may change. |
| (29) Please list any special provisions which have been developed to meet the particular needs of affected groups or persons including, but not limited to, minorities, elderly, small businesses, and farmers.<br><br>Under the current regulations which call for the Council to use MedisGroups, small specialty hospitals use a less expensive product in collecting data that was developed by MediQual Systems, Inc. |
| (30) What is the anticipated effective date of the regulation; the date by which compliance with the regulation will be required; and the date by which any required permits, licenses or other approvals must be obtained?<br><br>The regulation will become effective upon publication of the final-form regulation in the *Pennsylvania Bulletin*. The adoption of the regulation will not change the reporting methodology utilized by health care providers.<br><br>In the event the Council selects a new vendor and/or methodology, health care providers would change reporting methodologies at the end of the annual reporting cycle. They would have at least 180 days advanced notice of the change. |
| (31) Provide the schedule for continual review of the regulation.<br><br>The Council is continually monitoring the state of the art of medical record collection and analysis. |

CDL – 1

**FACE SHEET**
**FOR FILING DOCUMENTS**
**WITH THE LEGISLATIVE REFERENCE BUREAU**

**(Pursuant to Commonwealth Documents Law)**

99 JUL 28 PM 12:07

#1995

DO NOT WRITE IN THIS SPACE

| Copy below is hereby approved as to form and legality. Attorney General | Copy below is hereby certified to be a true and correct copy of a document issued, prescribed or promulgated by: | Copy below is hereby approved as to form and legality. Executive or Independent Agencies. |
|---|---|---|
| By: _____ (Deputy Attorney General) | Pennsylvania Health Care Cost Containment Council (Agency) | By: John D. Killian |
| _____ Date of Approval | DOCUMENT/FISCAL NOTE NO. 100-14 | 7/20/99 Date of Approval |
| | DATE OF ADOPTION: | ~~(Deputy General Counsel)~~ (Chief Counsel, Independent Agency) (Strike inapplicable title) |
| ☐ Check if applicable Copy not approved. Objections attached. | By: Marc P. Volavka | ☐ Check if applicable. No Attorney General approval or objection within 30 days after submission. |
| | TITLE: Executive Director (EXECUTIVE OFFICER, CHAIRMAN OR SECRETARY) | |

Notice of Final-Form Rulemaking
Pennsylvania Health Care Cost Containment Council
(28 PA Code CH. 911 and 912)

Severity Methodology

The Pennsylvania Health Care Cost Containment Council, under the authority of section 5(b) of the Pennsylvania Health Care Cost Containment Act (35 P.S. §449.5), is submitting final-form regulations to amend the following sections of its current regulations: §911.1, §911.3, §911.4, §912.1, §912.3, §912.31. The amendments remove specific reference to a particular methodology currently used by the Council in order to afford the Council flexibility in selecting an alternative methodology for measuring provider quality and provider service effectiveness.

**FINAL-FORM RULEMAKING**

(28 PA CODE CH.911 and 912)

The Pennsylvania Health Care Cost Containment Council (the Council), under the authority of section 5(b) of the Pennsylvania Health Care Cost Containment Act (35 P.S. §449.5), proposes to amend §911.1 (relating to definitions), §911.3 (relating to Council adoption of MedisGroups derived index methodology for patient severity upon admission and morbidity), §911.4 (relating to Table A), §912.1 (relating to legal base and purpose), §912.3 (relating to definitions) and §912.31 (relating to principle).

*Purpose*

The purpose is to give the Council greater flexibility in responding to the marketplace than the present regulations allow. The proposed amendments will enable the Council to change its vendor if the vendor fails to meet its contractual requirements.

*Summary of Amendments*

The proposed amendments remove specific reference to the MedisGroups methodology in order to afford the Council flexibility in selecting a methodology for measuring provider quality and provider service effectiveness. The proposed text of the final-form regulation is identical to that submitted under the proposed rulemaking.

*Affected Parties*

All data sources in Pennsylvania currently required to use the MedisGroups methodology.

*Paperwork Requirements*

The proposed amendments will not impose additional paperwork on the private sector, the general public or the Commonwealth and its political subdivisions.

*Fiscal Impact*

The proposed amendments will have no fiscal impact on the regulated community, the State or local governments.

*Effective Date*

The proposed amendments will be effective upon publication of final regulations in the *Pennsylvania Bulletin*.

*Sunset Date*

The Council continually monitors its regulations. Therefore, no sunset date has been assigned.

*Contact Person*

For further information, contact Marc P. Volavka, Executive Director, Pennsylvania Health Care Cost Containment Council, 225 Market Street, Suite 400, Harrisburg, PA 17101, (717)232-6787.

*Response to Public Comment*

Written comments, suggestions or objections were requested within a 30-day period after publication of the proposed amendments in the *Pennsylvania Bulletin* on January 16, 1999. Comments were submitted by the Hospital and Healthsystem Association of Pennsylvania and the Hospital Council of Western Pennsylvania. In addition, the Council received comments from the Pennsylvania Medical Society after the 30-day comment period ended.

In general, the comments supported the intent of the proposed amendments. It was suggested by the Hospital and Healthsystem Association of Pennsylvania and the Hospital Council of Western Pennsylvania, however, that the Council should remove specific reference to "clinical" factors in the definition of "patient severity." The Council's detailed response to these comments was submitted to the Independent Regulatory Review Commission with this final-form regulation. The Council's response outlines reasons why this suggestion was not incorporated into the final-form regulation, the main reason being that severity adjustment systems, whether they are "clinical" or "administrative" systems, incorporate some degree of "clinical" information. A copy of the complete response is available to the public upon request.

*Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P.S. §745.5(a)), on January 5, 1999, the Council submitted a copy of the proposed rulemaking to the Independent Regulatory Review Commission (IRRC) and to the Chairmen of the House Committee on Health and Human Services and the Senate Committee on Public Health and Welfare. The proposed rulemaking was then re-submitted on February 3, 1999 following the formal announcement of the Committee chairs. In addition to submitting the proposed amendments, the Council provided IRRC and the Committees with a copy of a detailed Regulatory Analysis Form, prepared by the Council. A copy of this material is available to the public upon request.

Under section 5(g) of the Regulatory Review Act, IRRC submitted comments to the Council at the close of the Committees' review period. The comments from IRRC are addressed in the

Council's response to public comments. A copy of the response is available to the public upon request.

In preparing the final-form regulations, the Council has considered all comments received from the public and IRRC. No comments on the proposed regulation were received from either of the legislative committees.

The Council submitted a copy of the final-form rulemaking and the response to public comments to IRRC and to the Chairmen of the House Committee on Health and Human Services and the Senate Committee on Public Health and Welfare on July 28, 1999. This information was also sent to those commentators who requested information on the final-form regulation. In addition to submitting a copy of the final-form rulemaking and the response to public comments, the Council provided IRRC and the Committees with a copy of a detailed Regulatory Analysis Form, prepared by the Council. A copy of this material is available to the public upon request.

The Regulatory Review Act specifies detailed procedures for review by the Council, the Governor and the General Assembly prior to final publication of the amendments.

LEONARD BORESKI
Chair

Annex A

TITLE 28. HEALTH AND SAFETY

PART VI. HEALTH CARE COST CONTAINMENT COUNCIL

CHAPTER 911. DATA SUBMISSION AND COLLECTION

Subchapter A. STATEMENT OF POLICY

§911.1. Definitions.

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

* * * * * * * * *

[*MedisGroups* - A computerized system that calculates patient morbidity and patient severity according to a methodology developed by MediQual Systems, Inc.

*Patient morbidity* - A score indicating the presence or absence of a major or minor morbidity as measured by MedisGroups defined methodology.]

*Patient severity* - A [score from 0 to 4 reflecting the] **measure of** severity of illness as defined by [MedisGroups methodology] **the Council** using [key] **appropriate** clinical findings, such as physician examinations, radiology findings, laboratory findings and pathology findings **or any other relevant clinical factors**.

* * * * * * * * *

§911.3. Council adoption of [MedisGroups derived index] methodology [for patient severity upon admission and morbidity].

[The MedisGroups methodology for determining patient severity upon admission and patient morbidity is the nationally recognized methodology of quantifying and collecting data on provider quality

and provider service effectiveness for purposes of sections 5 and 6 of the act (35 P.S. §§ 449.5 and 449.6). The following four options are acceptable to the Council:

(1) A hospital may purchase the full MedisGroups license, which includes information and services beyond the Council's requirements for calculating admission severity and morbidity.

(2) A hospital may purchase an abridged MedisGroups license, which includes only information and services required to provide the Council with patient severity upon admission and morbidity.

(3) A hospital may purchase a service contract for the abridged version from a provider licensee - for example, another hospital - of the full version of MedisGroups.

(4) A hospital may purchase a service contract with a nonprovider licensee of abridged MedisGroups.]

**Pursuant to section 6(d) of the Act, the Council shall adopt a methodology required to collect and report provider quality and provider service effectiveness. Periodically, the Council shall review the methodology and, should a change be necessary, it shall be made by majority vote of the Council at a public meeting. Notice of the change shall be given to all appropriate data sources within thirty (30) days and at least one hundred and eighty (180) days before the change is to be implemented.**

§911.4. Adoption of data elements to be reported to the Council.

* * * * * * * * *

TABLE A

PENNSYLVANIA UNIFORM CLAIMS AND BILLING FORM
DATA ELEMENTS

| Field | Data Element | Definition |
|---|---|---|
| * * * * * * * * * | | |
| [21a | Patient Severity Upon Admission | A score from 0 to 4 reflecting the severity of illness as defined by MedisGroups methodology using key clinical findings, such as physical examination, radiology findings, laboratory findings and pathology findings. |

| | | |
|---|---|---|
| 21b | Patient Morbidity | A score indicating the presence or absence of a major or minor morbidity as measured by MedisGroups defined methodology.] |

* * * * * * * * *

CHAPTER 912. DATA REPORTING REQUIREMENTS

Subchapter A. GENERAL PROVISIONS

§ 912.1. Legal base and purpose.

(a) This chapter is promulgated by the Council under section 6 of the Health Care Cost Containment Act (35 P.S. § 449.6).

(b) This chapter establishes submission schedules and formats for the collection of data from health care facilities specified in section 6 of the act.

[(c) The Council hereby adopts the MedisGroups' methodology for determining patient morbidity and patient severity upon admission to a hospital for purposes of quantifying and collecting data on provider quality and provider service effectiveness. The MedisGroups' methodology is available to hospitals either as the full MedisGroups' system or the MedisPA system.]

§912.3. Definitions.

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

* * * * * * * * *

*[MedisGroups* - A computerized system that calculates patient morbidity and patient severity according to a methodology developed by MediQual Systems, Inc.

*MedisPA* - The abridged version of MedisGroups using the MedisGroups' methodology.

*Patient morbidity* - A score indicating the presence or absence of a major or minor morbidity as measured by MedisGroups' defined methodology.

*Patient severity* - A score from 0 to 4 reflecting the severity of illness as defined by MedisGroups' methodology using key clinical findings, such as physician examinations, radiology findings, laboratory findings and pathology findings.]

* * * * * * * * *

## Subchapter B. PENNSYLVANIA UNIFORM CLAIMS AND BILLING FORM SUBMISSION SCHEDULES

### §912.31. Principle.

The Council may, within its discretion and for good reason, grant exceptions to sections within this chapter when the policy and objectives of this chapter and the act are otherwise met. [Failure of MediQual, Inc. to perform shall be reason for the Council to grant an exception to hospitals under § 912,22(1)(iii) and (2) (relating to data element submission schedules).]

F:\HOME\JDK\PHC4REGS
10/26/98

**Pennsylvania Health Care Cost Containment Council**
**Response to Comments on Proposed Regulation #100-14 (#1995)**
**Severity Methodology**

## Background

The Pennsylvania Health Care Cost Containment Council proposes to amend the following sections of its regulations: §911.1, §911.3, §911.4, §912.1, §912.3, and §912.31. The proposed amendments remove specific reference to a particular severity adjustment methodology used by the Council in order to afford the Council flexibility in selecting an alternative methodology for measuring provider quality and provider service effectiveness. The proposed amendments are referred to as Regulation #100-14 (#1995) entitled *Severity Methodology*.

As the Council's regulations are currently written, the MediQual Atlas system (formerly MedisGroups) is specifically mandated to serve as the patient severity adjustment system. Should the Council want to select another system or should the MediQual system cease to operate, there is no provision for an alternative severity adjustment system. The proposed regulation change would remove the specific reference to the MediQual system from the Council's current regulations and allow the Council the ability to choose another severity methodology vendor.

At the Council's November 1998 meeting, the full Council voted to approve language for the proposed regulation as published in the January 16, 1999 issue of the *Pennsylvania Bulletin*.

## General Comments

Public notice of the proposed regulation change directed interested parties wanting to comment on the proposed regulation to submit such comments to the Council within 30 days of the publication of the notice. The period for public comment ended on February 16, 1999.

As of that date, the Council received comments from the Hospital and Healthsystem Association of Pennsylvania and the Hospital Council of Western Pennsylvania. The Council received comments from the Pennsylvania Medical Society after the deadline for public comment.

After reviewing the submissions from the Hospital and Healthsystem Association of Pennsylvania and the Hospital Council of Western Pennsylvania, the Independent Regulatory Review Commission also submitted comments to the Council.

In general, all of the comments submitted to the Council regarding the proposed regulation supported the intent of the regulation (i.e., giving the Council the flexibility to select another severity adjustment methodology if appropriate).

## Suggested Modifications and Response

While the intent of the regulation change was widely supported by all parties, some comments suggested minor modifications to the proposed language.

Based on the comments submitted by the Hospital and Healthsystem Association of Pennsylvania and the Hospital Council of Western Pennsylvania, the Independent Regulatory Review Commission suggested that the Council should amend the definition of "patient severity" to de-emphasize the "clinical" aspect of the definition.

In response to the suggestion that the definition of "patient severity" be modified, the Council suggests that the current definition is sufficient to allow the Council to choose from a selection of patient severity adjustment methodologies (including both "clinical" and "administrative" systems).

While the proposed definition of "patient severity" includes phrases such as "clinical findings" and "clinical factors," the Council believes that any patient severity methodology, whether it be a "clinical" or an "administrative" system, contains clinical information such as clinical findings and clinical factors.

The difference between the "clinical" and "administrative" systems is essentially the detail with which the clinical information is analyzed and presented. For example, an "administrative" system contains factors that focus on clinical conditions such as diagnoses (e.g., renal failure) identified by ICD-9-CM codes (i.e., International Classification of Diseases, Ninth Edition, Clinical Modification), whereas a "clinical" system includes factors that describe these diagnoses in more detail (e.g., the laboratory values that indicate an individual is in renal failure).

Further, the term "clinical" is an important part of the proposed regulation as our experience with the physician community has reflected that physicians will only support a system that is "capable of collecting clinically based and severity-adjusted data," as expressed in the comments of the Pennsylvania Medical Society.

The hospital community, as reflected in the comments from the Hospital and Healthsystem Association of Pennsylvania and the Hospital Council of Western Pennsylvania, supports the use of discharge abstract-based severity systems — the "administrative systems" — over the use of the clinical data-based severity systems — referred to as "clinical" systems. Both submissions fail to note, however, that even vendors of the discharge abstract-based severity systems have expressed that such systems are "clinical" in nature. With this being the case, the Council believes that reference in the regulation to clinical factors and clinical findings will not preclude us from selecting an "administrative" methodology system if that is deemed appropriate. Ultimately, the Council's objective is to put in place a severity adjustment system which the entire health care community (e.g., hospitals, physicians, managed care organizations, etc.) can agree upon and which can provide the Council with the information needed to report data appropriately.

## The Issue of Cost

As the Hospital and Healthsystem Association of Pennsylvania stated, "Adoption of the proposed rulemaking, in and of itself, will have no fiscal impact." If the Council should choose, through the flexibility afforded in this proposed regulation, to select a severity adjustment system other than MediQual, there is the potential for a fiscal impact, either positively or negatively.

Both the Hospital and Healthsystem Association of Pennsylvania and the Hospital Council of Western Pennsylvania raised the issue of cost. The Hospital and Healthsystem Association of Pennsylvania states that, "hospitals incur significant costs and paperwork requirements associated with collecting data using the mandated MediQual system (estimated at $40 million to $50 million annual cost for all Pennsylvania hospitals)." A similar cost estimate is put forth by the Hospital Council of Western Pennsylvania.

Because the proposed regulation change, in and of itself, has no fiscal impact, the Council did not verify the $40 to $50 million figure put forth by the Hospital and Healthsystem Association of Pennsylvania and the Hospital Council of Western Pennsylvania. As these two groups raised the issue of cost, however, the Council notes the following important points:

- It is important to understand that while hospitals are required to submit MediQual data to the Council, they may also use this same data for internal purposes such as quality assurance. A Performance Audit of the Health Care Cost Containment Council completed by the Legislative Budget and Finance Committee in May 1992 noted that "Hospitals report that Council reporting requirements are costly and burdensome, but many hospitals would continue to incur these costs regardless of Council requirements."

- In early 1998, the Hospital and Healthsystem Association of Pennsylvania sent the Council a letter which stated, "The average cost of compliance with the MediQual mandate, as reported on HAP's survey is approximately $157,000 per year [per hospital]." With 200 hospitals required to submit such data to the Council, using this figure results in a total cost of the MediQual system to hospitals at approximately $31.5 million annually. Based on the 1.82 million hospital inpatient discharges in 1997, this cost represents approximately $17 per discharge. With total gross inpatient charges of Pennsylvania hospitals approximately $25.5 billion annually, the $31.5 million spent on the MediQual system represents 0.12% (or $1 of every $809) of hospital charges. From a "premium" perspective, the cost of the MediQual system represents approximately 0.3% ($1 of every $329) of health care premiums paid by purchasers.

  Even using the higher estimated annual cost of MediQual put forth by the Hospital and Healthsystem Association of Pennsylvania in the comments addressing this regulation ($50 million annually), and based on the 1997 1.82 million hospital inpatient discharges, this represents a cost of approximately $27 per discharge. With the gross hospital inpatient charges noted previously ($25.5 billion), the $50 million spent on MediQual represents less than 0.2% (or $1 of every $510) of hospital inpatient charges. This represents less than 0.5% ($1 of every $207) of health care premiums.

The Council, using figures supplied by the Hospital and Healthsystem Association of Pennsylvania, therefore estimated the cost of the MediQual system to be between $17 and $27 per hospital inpatient discharge and represents between 0.12% and 0.2% of hospital inpatient charges. While this cost may not appear to be significant, the Council is mindful of the need to keep hospital costs as low as possible while still meeting our statutory requirements.

**Conclusion**

In late 1997, the Council issued a Request for Information (RFI) to examine the available severity adjustment systems. The Council convened a Severity Adjustment Assessment Panel (SAAP) to review 17 RFI submissions. The Severity Adjustment Assessment Panel voted to forward six out of this group to the Council's Technical Advisory Group (TAG). Of these six submissions, three were "clinical" systems and three were "administratively" based systems. All nine Technical Advisory Group (TAG) members reviewed the RFI material and rated them according to the same system as did the Severity Adjustment Assessment Panel (SAAP). The Technical Advisory Group forwarded one system of each "type", a "clinical" system and an "administrative" system to the Council's RFI Review Panel. In forwarding the two systems, the TAG made note of the scientific credibility of the "clinical system", while acknowledging the cost advantages to hospitals of the "administrative" approach. After a comprehensive review process, the RFI Review Panel recommended and the Council voted to continue to use the MediQual system.

If, however, the Council had decided to select another system, the Council's current regulation would have prohibited them from doing so. It is the Council's intent by this regulatory change to eliminate specific reference to MediQual. This will enable the Council to select another severity adjustment methodology, if warranted, which could include "clinical" data, "administrative" data, or some combination of both.

While the Council recognizes the comments from the hospital community and the Independent Regulatory Review Commission addressing the "clinical" terminology in the proposed regulation, the Council believes that the proposed language including "clinical findings" and "clinical factors" will allow the Council the ability to choose from a variety of severity adjustment methodologies and therefore supports the language initially proposed for the regulation in the January 16, 1999 issue of the Pennsylvania Bulletin.

**Pennsylvania Health Care Cost Containment Council**

**IRRC Regulation #100-14 (#1995)**

**Severity Methodology**

*Names and addresses of commentators who requested the final-form regulation:*

Martin J. Ciccocioppo
Vice President, Research
The Hospital & Healthsystem Association of Pennsylvania
4750 Lindle Road
P.O. Box 8600
Harrisburg, PA 17105-8600

*Pennsylvania's Declaration of Health Care Information*
*A Commitment to Quality, Affordable, Health Care*


# PENNSYLVANIA HEALTH CARE COST CONTAINMENT COUNCIL

July 28, 1999

Robert E. Nyce, Executive Director
Independent Regulatory Review Commission
333 Market Street
14th Floor
Harrisburg, PA 17101

Re: IRRC Regulation #100-14 (#1995)
Pennsylvania Health Care Cost Containment Council
Severity Methodology

Dear Mr. Nyce:

In accordance with the Regulatory Review Act we are forwarding the final-form regulation regarding IRRC regulation #100-14 (#1995) as requested by the Pennsylvania Health Care Cost Containment Council. The final-form regulation is the same as the proposed regulation. The enclosed response to the comments submitted by IRRC and the other commentators details our reasons for using the same language in the final-form regulation as in the proposed regulation.

As required, in addition to the final-form regulation, enclosed are the following documents:

(1) A completed regulatory analysis form,
(2) A face sheet signed by our Chief Counsel,
(3) A transmittal sheet signed by the appropriate committees,
(4) Our response to the comments we received,
(5) The preamble,
(6) The text of the final-form regulation, and
(7) The names and addresses of commentators who requested the final-form regulation.

If you should have any questions, please contact Flossie Wolf, Director of Policy and Legislative Affairs, at 232-6787. Thank you for your cooperation in this matter.

Best regards,

Marc P. Volavka
Executive Director

enclosures

cc: Flossie Wolf

Suite 400, 225 Market Street Harrisburg, PA 17101
717-232-6787 www.phc4.org FAX 717-232-3821

**TRANSMITTAL SHEET FOR REGULATIONS SUBJECT TO THE REGULATORY REVIEW ACT**

99 JUL 28 PM 12:07

I.D. NUMBER: 100

SUBJECT: Severity Methodology (100-14)

AGENCY: Pennsylvania Health Care Cost Containment Council

**TYPE OF REGULATION**

Proposed Regulation

X Final Regulation

Final Regulation with Notice of Proposed Rulemaking Omitted

120-day Emergency Certification of the Attorney General

120-day Emergency Certification of the Governor

Delivery of Tolled Regulation
a. With Revisions b. Without Revisions

**FILING OF REGULATION**

| DATE | SIGNATURE | DESIGNATION |
|---|---|---|
| 7-28-99 | Marguerite Lellette | CHAIR, HOUSE COMMITTEE ON HEALTH AND HUMAN SERVICES |
| 7/28 | | DEMOCRATIC CHAIR |
| 7-28 | Debbie Eaton | CHAIR, SENATE COMMITTEE ON PUBLIC HEALTH AND WELFARE |
| 7-28 | | DEMOCRATIC CHAIR |
| 7/28/99 | | INDEPENDENT REGULATORY REVIEW COMMISSION |
| | | ATTORNEY GENERAL |
| | | LEGISLATIVE REFERENCE BUREAU |

December 2, 1998