

Regulatory Analysis Form		This space for use by IRRC RECEIVED
(1) Agency Pennsylvania Health Care Cost Containment Council		99 JAN -5 PM 2: 03 INDEPENDENT REGULATORY REVIEW COMMISSION Wizner
(2) I.D. Number (Governor's Office Use) Agency Number: 100 <div style="text-align: center; font-size: 1.2em;">100-14</div>		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) <input checked="" type="checkbox"/> Proposed Rulemaking <input type="checkbox"/> Final Order Adopting Regulation <input type="checkbox"/> Final Order, Proposed Rulemaking Omitted	(7) Is a 120-Day Emergency Certification Attached? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes: By the Attorney General <input type="checkbox"/> Yes: By the Governor	
(8) Briefly explain the regulation in clear and nontechnical language. <p>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.”</p> <p>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.</p> <p>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.</p>		

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(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.

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(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 lose 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.

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(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.

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(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						

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(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.

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(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.

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(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.

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.

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?

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.

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.

The Council is continually monitoring the state of the art of medical record collection and analysis.

FACE SHEET
FOR FILING DOCUMENTS
WITH THE LEGISLATIVE REFERENCE BUREAU
(Pursuant to Commonwealth Documents Law)

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99 JAN -5 PM 2: 03

INDEPENDENT REGULATORY
REVIEW COMMISSION

DO NOT WRITE IN THIS SPACE

<p>Copy below is hereby approved as to form and legality. Attorney General</p> <p>By: <u><i>David J. Ladd</i></u> (Deputy Attorney General)</p> <p>_____ Date of Approval</p> <p><input type="checkbox"/> Check if applicable Copy not approved Objections attached</p>	<p>Copy below is hereby certified to be a true and correct copy of a document issued, prescribed or promulgated by:</p> <p>Pennsylvania Health Care Cost Containment Council (Agency)</p> <p>DOCUMENT/FISCAL NOTE NO. <u>100-14</u></p> <p>DATE OF ADOPTION: _____</p> <p>By: <u><i>Marc P. Volavka</i></u> Marc P. Volavka</p> <p>TITLE: <u>Executive Director</u> (EXECUTIVE OFFICER, CHAIRMAN OR SECRETARY)</p>	<p>Copy below is hereby approved as to form and legality Executive or Independent Agencies.</p> <p>By: <u><i>John A. Kline</i></u></p> <p><u>12/17/98</u> Date of Approval</p> <p>(Deputy General Counsel) (Chief Counsel, Independent Agency) (Strike inapplicable title)</p> <p><input type="checkbox"/> Check if applicable. No Attorney General approval or objection within 30 days after submission</p>
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Notice of Proposed 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), proposes to amend the following sections of its regulations: §911.1, §911.3, §911.4, §912.1, §912.3, §912.31. The proposed 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.

PROPOSED RULEMAKING

(28 PA CODE CH.911 and 912)

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), 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.

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-form regulations in the *Pennsylvania Bulletin*.

Sunset Date

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

Public Comment/Contact Person

Written comments, suggestions or objections will be accepted for 30 days after publication of the proposed amendments in the *Pennsylvania Bulletin*. Comments should be addressed to Marc P. Volavka, Executive Director, Pennsylvania Health Care Cost Containment Council, Suite 400, 225 Market Street, Harrisburg, PA 17101.

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 Chairman of the House Committee on Health and Human Services and the Senate Committee on Public Health and Welfare. In addition to submitting the proposed amendments, the Board has 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, if IRRC has objections to any portion of the proposed amendments, it will notify the Council within 10 days of the close of the Committees' review period. The notification shall specify the regulatory review criteria which have not been met by that portion. 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.

RANDALL N. DiPALO
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).]

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10/26/98

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

RECEIVED

I.D. NUMBER: 100

SUBJECT: Severity Methodology (100-14)

99 JAN -5 PM 2:03

AGENCY: Pennsylvania Health Care Cost Containment Council

INDEPENDENT REGULATORY
REVIEW COMMISSION

TYPE OF REGULATION

- Proposed Regulation
- 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
1/5/99	<i>Lela Burris</i>	CHAIR, HOUSE COMMITTEE ON HEALTH AND HUMAN SERVICES
1/5/99	<i>D. Atherton</i>	DEMOCRATIC CHAIR
1/5	<i>A. Bohe</i>	CHAIR, SENATE COMMITTEE ON PUBLIC HEALTH AND WELFARE
1/5	<i>D. [unclear]</i>	DEMOCRATIC CHAIR
1/5/99	<i>Tim C. Gurner</i>	INDEPENDENT REGULATORY REVIEW COMMISSION
		ATTORNEY GENERAL
1/5/98	<i>[unclear]</i>	LEGISLATIVE REFERENCE BUREAU

December 2, 1998