

Regulatory Analysis Form

<p>(1) Agency</p> <p>Department of Public Welfare Office of Medical Assistance Programs</p>	<p>This space for use by IRRC</p> <p>RECEIVED</p> <p>2000 MAR -6 PM 1:47</p> <p>INDEPENDENT REGULATORY REVIEW COMMISSION</p> <p>IRRC Number: McGinley</p>
<p>(2) I.D. Number (Governor's Office Use)</p> <p>14-465</p>	<p># 2103</p>
<p>(3) Short Title</p> <p>Elimination of Physician Attestation Requirement</p>	
<p>(4) PA Code Cite</p> <p>55 Pa. Code Chapter 1163, Subchapter A</p>	<p>(5) Agency Contacts & Telephone Numbers</p> <p>Primary Contact: Ann Burnett 772-6807</p> <p>Secondary Contact: Linda Miller 772-6522</p>
<p>(6) Type of Rule Making (Check One)</p> <p><input type="checkbox"/> Proposed Rule Making</p> <p><input type="checkbox"/> Final Order Adopting Regulation</p> <p><input checked="" type="checkbox"/> Final Order, Proposed Rule Making Omitted</p>	<p>(7) Is a 120-Day Emergency Certification Attached?</p> <p><input checked="" type="checkbox"/> No</p> <p><input type="checkbox"/> Yes: By the Attorney General</p> <p><input type="checkbox"/> Yes: By the Governor</p>
<p>(8) Briefly explain the regulation in clear and nontechnical language.</p> <p>The purpose of this amendment is to revise 55 Pa. Code Chapter 1163, Subchapter A to eliminate the requirement for a physician attestation statement.</p>	
<p>(9) State the statutory authority for the regulation and any relevant state or federal court decisions.</p> <p>The Department amends these regulations pursuant to the authority of Sections 202(2) and 443.1 of the Public Welfare Code, Act of June 13, 1967 (P.L. 31, No. 21)(62 P.S. §§ 202(2) and 443.1).</p>	

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(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.

No.

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

This change will eliminate the administrative burden on hospitals and physicians, thus enabling them to increase their efficiency and provide enhanced services to medical assistance (MA) recipients. This change can be made without impacting the Department's ability to monitor the accuracy of information submitted by hospitals.

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

None.

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

Hospitals and physicians will benefit in that they will no longer have the administrative burden of completing the physician attestation statements for MA recipients. This will enable the hospitals to increase their efficiency and provide enhanced services to MA recipients.

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(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.)

No one will be adversely affected by these regulations.

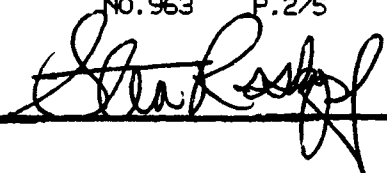
(15) List the persons, groups or entities that will be required to comply with the regulation. (Approximate the number of people who will be required to comply.)

With the elimination of the physician attestation requirement, acute care general hospitals and physicians participating in the Medical Assistance Program will no longer have to comply with this regulation.

(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 Department received input from the Medical Assistance Advisory Committee (MAAC) and also received input from various provider associations, advocating the elimination of the physician attestation requirement.

(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.



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(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.)

(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.)

(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.

(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.

Not applicable.

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(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.

Not applicable.

(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 purpose of this regulation change is to eliminate the physician attestation requirement. This change will have no fiscal impact on the Medical Assistance-Inpatient appropriation.

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(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.
 (Dollar Amounts in Thousands)

	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	\$0	\$0	\$0	\$0	\$0	\$0
Total Savings	\$0	\$0	\$0	\$0	\$0	\$0
COSTS:						
Regulated Community						
Local Government						
State Government	\$0	\$0	\$0	\$0	\$0	\$0
Total Costs	\$0	\$0	\$0	\$0	\$0	\$0
REVENUE LOSSES:						
Regulated Community						
Local Government						
State Government						
Total Revenue Losses	\$0	\$0	\$0	\$0	\$0	\$0

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

Not applicable.

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**(20b) Provide the past three years expenditure history for programs affected by the regulation.
(Dollar Amounts In Thousands)**

Program	FY -3	FY -2	FY -1	Current FY
MA-Inpatient-State	\$436,941	\$428,079	\$453,594	\$325,501

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

This regulations change will reduce the administrative burden for acute care general hospitals and physicians participating in the Medical Assistance Program.

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

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

Regulatory Analysis Form

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

Program	FY -3	FY -2	FY -1	Current FY

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

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

There were no nonregulatory alternatives considered, since the requirement for the physician attestation statement could be eliminated only by revising the regulation.

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

Does not apply.

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(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.

No.

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

The elimination of this requirement is consistent with the direction of other states' Medicaid programs. Pennsylvania is the last state to eliminate the physician attestation requirement.

(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 public hearings were conducted.

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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.

No.

(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.

None. Not applicable.

(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?

This regulation shall take effect immediately upon publication in the Pennsylvania Bulletin.

(31) Provide the schedule for continual review of the regulation.

The effectiveness of the revised regulations will be evaluated as an ongoing process. Necessary and appropriate changes will be made in response to letters and recommendations from other offices, agencies and individuals.

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

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REGULATORY
REVIEW COMMISSION

#14-465 #2103

DO NOT WRITE IN THIS SPACE

Copy below is hereby approved as to
form and legality. Attorney General

BY: _____
(Deputy Attorney General)

Date of Approval

Check if applicable
Copy not approved. Objections
attached.

Copy below is hereby certified to be a true and correct copy
of a document issued, prescribed or promulgated by:

Department of Public Welfare
(Agency)

LEGAL COUNSEL: Jullie Rodgers

DOCUMENT/FISCAL NOTE NO. #14-465

DATE OF ADOPTION: _____

BY: J. Moustoun

TITLE: Secretary
(Executive Officer, Chairman or Secretary)

Copy below is hereby approved as to
form and legality. Executive or Independent
Agency

BY: Howard G. Burt

2/9/00
Date of Approval

(Deputy General Counsel)
(Chief Counsel, Independent Agency)
(Strike inapplicable title)

Check if applicable. No Attorney Gen-
eral approval or objection within 30
days after submission.

NOTICE OF FINAL RULEMAKING WITHOUT PUBLICATION PROPOSED

DEPARTMENT OF PUBLIC WELFARE

OFFICE OF MEDICAL ASSISTANCE PROGRAMS

(55 PA. CODE CHAPTER 1163, SUBCHAPTER A)

ELIMINATION OF PHYSICIAN ATTESTATION REQUIREMENT

The Department of Public Welfare, by this order, adopts the amended regulations set forth in Annex A pursuant to the authority of Sections 201(2) and 443.1 of the Public Welfare Code, Act of June 13, 1967 (P.L. 31, No. 21) (62 P.S. §§ 201(2) and 443.1).

Notice of proposed rulemaking is omitted in accordance with Sections 204(1)(iv) and (3) of the Commonwealth Documents Law (CDL) (45 P.S. § 1204 (1)(iv) and (3)) and 1 Pa. Code § 7.4(1)(iv) and (3). The administrative regulation relates to Commonwealth grants and benefits. Moreover, this regulatory change has been advocated by the hospital community and input has been received from the Medical Assistance Advisory Committee. Elimination of the physician attestation requirement will reduce the administrative burden on hospitals and physicians, thus enabling them to increase their efficiency and provide enhanced services to Medical Assistance recipients. Therefore, the Department finds notice of proposed rulemaking is omitted for good cause as unnecessary and contrary to the public interest in accordance with Section 204(3) of the CDL (45 P.S. § 1204(3)) and 1 Pa. Code § 7.4(3).

Purpose

This amendment to Chapter 1163, Subchapter A (relating to Medical Assistance (MA) Program payment policies for acute care general hospitals under the prospective payment system) eliminates the physician attestation requirement.

Background

Current regulations governing acute care general hospitals under the diagnosis-related group (DRG) prospective payment system require that the attending physician attest to the accuracy of the principal and secondary diagnoses and the procedures performed during an MA patient's stay in the hospital and that an attestation statement be included in each patient's medical record. (55 Pa. Code § 1163.75(7)). All discharges from acute care general hospitals are classified into a DRG and MA payment to the hospital is based on the DRG assigned to a particular hospital stay. Because the information which is currently attested to by the physician dictates which DRG is assigned, it is necessary that the information be correct so that proper payment can be made.

Medicare regulations contained a similar attestation requirement for physicians until September 1, 1995. Like the Department, Medicare used the physician attestation statement to ensure correct Medicare payment and to hold hospitals and physicians accountable for the information they submitted on the Medicare claim form. Over the years, Medicare received numerous complaints from both hospitals and physicians concerning the burden of completing the attestation statement. As part of a DRG validation review completed for Medicare, the Peer Review Organization reviewed attestation statements and found less than a 0.01 percent denial rate of sampled claims. Therefore, because of the small denial rate, and in an effort to reduce the administrative burden on hospitals and physicians, Medicare revised its regulations and eliminated the physician attestation requirement.

The Department also has decided to eliminate the physician attestation requirement, thus reducing the administrative burden for hospitals and physicians, without significantly interfering with the Department's ability to monitor the accuracy of hospital claims and medical records. Existing Department regulations (55 Pa. Code § 1101.51(d) and (e), relating to standards of practice and record keeping requirements) require providers rendering medical care to MA recipients to document, among other things, each patient's diagnoses and

procedures performed during a hospital stay. This requirement is not being changed, and providers remain accountable for the accuracy and completeness of their medical records.

Need for Regulation

This change will eliminate the administrative burden on hospitals and physicians, thus enabling them to increase their efficiency and provide enhanced services to MA recipients. Further, the Department's policy in relation to attestation statements will now be consistent with that of Medicare.

Summary of Amendment

Section 1163.75(7) is deleted.

Section 1163.75(8) is renumbered Section 1163.75(7) and modified to eliminate the phrase "and attested to by the attending physician as specified in paragraph (7)."

Sections 1163.75(8) through (13) are renumbered as Sections 1163.75(7) through (12).

Fiscal Impact

PUBLIC SECTOR

No fiscal impact is anticipated on the public sector if this amendment is adopted.

PRIVATE SECTOR

Acute care general hospitals should realize some savings if this amendment is adopted as a result of a decrease in staff time previously devoted to the completion of the physician attestation statements. The amount of savings is difficult to quantify as it would vary from hospital to hospital.

GENERAL PUBLIC

There is no fiscal impact on the general public if this amendment is adopted.

Paperwork Requirements

There are no additional reports or new forms needed to comply with the regulation change.

Sunset Date

The Department's Office of Medical Assistance Programs will evaluate the effectiveness of this regulation on an ongoing basis. Necessary and appropriate changes will be made in response to letters, recommendations and comments from other offices, agencies and individuals, and as a result of departmental findings. No sunset date is required.

Public Comments

Although this regulation is being adopted without prior notice, interested persons are invited to submit their written comments, within 30 days of the date of this publication, for consideration by the Department. Such comments should be sent to the Department of Public Welfare, Office of Medical Assistance Programs, Attention: Regulations Coordinator, c/o Deputy Secretary's Office, Room 515, Health and Welfare Building, Harrisburg, Pennsylvania 17120.

Persons with a disability may give comments within 30 days from the date of this publication by calling the AT&T Relay Service at 1-800-654-5984 (TDD users) or 1-800-654-5988 (Voice users). If you require another alternative, please contact Mr. Thomas Vracarich at (717) 783-2209.

Regulatory Review Act

Under § 5(f) of the Regulatory Review Act, the Act of June 30, 1989 (P.L. 73, No. 19) (71 P.S. §§ 745.1-745.15), the agency submitted a copy of this regulation with proposed rulemaking omitted on ~~MAR 6 2000~~ to the Independent Regulatory Review Commission and to the Chairmen of the House Committee on Health and Welfare and the Senate Committee on Public Health and Welfare. On the same date, the regulation was submitted to the Office of the Attorney General for review and approval pursuant to the Commonwealth Attorneys Act. In accordance with § 5(c) of the Act, this regulation was (deemed) approved by the Committees on _____ and was (deemed) approved by the Commission on _____

The Department of Public Welfare finds:

- a. The public need of intention to amend the administrative regulation amended by this Order has been omitted pursuant to Section 204(1)(iv) of the Act No. 240 of July 31, 1968, P.L. 767 (45 P.S. Section 1204(1)(iv)) and the regulations thereunder, (Pa. Code Section 7.4(1)(iv)) and is unnecessary and contrary to the public interest under § 204(3) of the Act No. 240 of July 31, 1968, P.L. 767 (45 P.S. § 1204(3)) and the regulations thereunder, (1 Pa. Code § 7.4(3)).
- b. That the adoption of this regulation in the manner provided in this Order is necessary and appropriate for the administration and enforcement of the Public Welfare Code.

The Department of Public Welfare acting pursuant to the Public Welfare Code orders:

- a. The regulation of the Department of Public Welfare is amended to read as set forth in Annex A of this Order.
- b. The Secretary of the Department of Public Welfare shall submit this Order and Annex A hereto to the Attorney General and General Counsel for approval as to legality and form as required by law.
- c. The Secretary of the Department of Public Welfare shall duly certify this Order and Annex A hereto and deposit same in the Legislative Reference Bureau as required by law.
- d. This Order shall take effect immediately upon publication in the Pennsylvania Bulletin.

**ANNEX A
TITLE 55. PUBLIC WELFARE
CHAPTER 1163
INPATIENT HOSPITAL SERVICES
SUBCHAPTER A
ACUTE CARE GENERAL HOSPITALS UNDER THE
PROSPECTIVE PAYMENT SYSTEM
UTILIZATION CONTROL**

§ 1163.75. Responsibilities of the hospital utilization review committee.

- [(7)]** Assure that the attending physician has signed the following statement attesting to the principal diagnosis, secondary diagnoses, the names of procedures performed and has included the statement in the patient's medical record: "I certify that the identification of the principal and secondary diagnoses and the procedures performed is accurate and complete to the best of my knowledge. Notice: Intentional misrepresentation, concealment, or falsification of this information may, in the case of a Medical Assistance recipient, be punishable under applicable Federal and State laws."]
- [(8)]** Validate that the patient's diagnosis and other information specified in the patient's medical record [and attested to by the attending physician as specified in paragraph (7)] conforms with the information on the invoice submitted for payment.
- [(9)]** Maintain utilization review records for a minimum of 4 years from the end of the fiscal year in which the recipient was discharged.
- [(10)]** Submit copies of utilization review records and documents, medical records, certification of admission document and discharge planning information to the Department upon request.
- [(11)]** Maintain copies of the certification of admission document with the patient's medical record and with the hospital copy of the invoice submitted for payment.
- [(12)]** Initiate discharge planning during the admission review process to provide timely placement in an appropriate level of care for those patients that may require posthospital care.
- [(13)]** Follow the procedures specified in the Department's Manual for Diagnosis Related Group Review of Inpatient Hospital Services in conducting utilization review activities.

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INDEPENDENT REGULATORY REVIEW COMMISSION

I.D. NUMBER: 14-465
 SUBJECT: Elimination of Physician Attestation Requirement
 AGENCY: DEPARTMENT OF PUBLIC WELFARE

TYPE OF REGULATION

- Proposed Regulation
- Final Regulation
- X 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
3/6	<i>David Kuckler</i>	HOUSE COMMITTEE ON HEALTH & WELFARE <i>Human Services</i>
3/6	<i>Margaret Allister</i>	SENATE COMMITTEE ON PUBLIC HEALTH & WELFARE <i>Margaret Allister - Majority Chairman - Signature</i>
3/6	<i>Kristi Kreiser</i>	SENATE COMMITTEE ON PUBLIC HEALTH & WELFARE
3/6	<i>Ala. Bove</i>	INDEPENDENT REGULATORY REVIEW COMMISSION
3/6	<i>Russ Eckert</i>	INDEPENDENT REGULATORY REVIEW COMMISSION
3/6/00	<i>Jefferson</i>	ATTORNEY GENERAL
		LEGISLATIVE REFERENCE BUREAU