

<h2 style="margin: 0;">Regulatory Analysis Form</h2> <p style="margin: 0;">(Completed by Promulgating Agency)</p> <p style="margin: 0;"><i>(All Comments submitted on this regulation will appear on IRRC's website)</i></p>		<p>INDEPENDENT REGULATORY REVIEW COMMISSION</p> <div style="border: 2px solid black; padding: 5px; width: fit-content; margin: 0 auto;"> <p style="font-size: 1.5em; margin: 0;">RECEIVED</p> <p style="font-size: 1.2em; margin: 0;">JUN 10 2021</p> <p style="font-size: 0.8em; margin: 0;">Independent Regulatory Review Commission</p> </div> <p>IRRC Number: 3308</p>
<p>(1) Agency: Department of Human Services</p>		
<p>(2) Agency Number: 14</p> <p style="padding-left: 40px;">Identification Number: 549</p>		
<p>(3) PA Code Cite: 55 Pa. Code Chapter 1101.51(c)(3)</p>		
<p>(4) Short Title: Interrelationship of providers</p>		
<p>(5) Agency Contacts (List Telephone Number and Email Address):</p> <p>Primary Contact: Pamela Machamer-Peechatka Phone: (717) 409-3550 Email: pmachamerp@pa.gov</p> <p>Secondary Contact: Karen Lowery Phone: (717) 409-3551 Email: klowery@pa.gov</p>		
<p>(6) Type of Rulemaking (check applicable box):</p> <p><input checked="" type="checkbox"/> Proposed Regulation</p> <p><input type="checkbox"/> Final Regulation</p> <p><input type="checkbox"/> Final Omitted Regulation</p>	<p><input type="checkbox"/> Emergency Certification Regulation;</p> <p><input type="checkbox"/> Certification by the Governor</p> <p><input type="checkbox"/> Certification by the Attorney General</p>	
<p>(7) Briefly explain the regulation in clear and nontechnical language. (100 words or less)</p> <p>The purpose of this proposed regulation is to amend Title 55 of the Pennsylvania Code (Pa. Code), Chapter 1101, by removing Section 1101.51(c)(3) which prohibits a provider from leasing or renting space, shelves or equipment in the provider's office to another provider or allowing the placement of paid or unpaid staff of another provider in the provider's office.</p> <p>The Department of Human Services (Department) is rescinding this provision to allow providers to share space ("co-locate").</p>		
<p>(8) State the statutory authority for the regulation. Include <u>specific</u> statutory citation.</p> <p>Article IV, Section 403.1(a)(6) of the Human Services Code (62 P.S. § 403.1(a)(6)).</p>		
<p>(9) Is the regulation mandated by any federal or state law or court order, or federal regulation? Are there any relevant state or federal court decisions? If yes, cite the specific law, case or regulation as well as, any deadlines for action.</p> <p>No federal or state statute or regulation, court order or court decision mandates this proposed regulation.</p>		

(10) State why the regulation is needed. Explain the compelling public interest that justifies the regulation. Describe who will benefit from the regulation. Quantify the benefits as completely as possible and approximate the number of people who will benefit.

This proposed regulation will allow providers that are co-located to enroll or remain enrolled in the Medical Assistance (MA) Program without the need for a Secretarial waiver or the submission of an attestation. See 46 Pa.B 2683 (May 28, 2016). The proposed regulation also enhances the delivery of health care services to MA beneficiaries by enabling them to receive services from more than one provider at the same location if they choose to do so.

(11) 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 regulations.

No provisions are more stringent than federal standards.

(12) How does this regulation compare with those of the other states? How will this affect Pennsylvania's ability to compete with other states?

This proposed regulatory amendment will bring Pennsylvania in line with other states. Of the 12 states the Department contacted, only Pennsylvania has a regulation prohibiting co-location of providers.

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

This proposed regulatory amendment will not affect any other regulations of the promulgating agency or other state agencies.

(14) Describe the communications with and solicitation of input from the public, any advisory council/group, small businesses and groups representing small businesses in the development and drafting of the regulation. List the specific persons and/or groups who were involved. ("Small business" is defined in Section 3 of the Regulatory Review Act, Act 76 of 2012.)

The draft Statement of Policy (SOP) on shared space, published at 46 Pa.B. 2683 (May 26, 2016), and the proposed rescission of the regulation at 55 Pa. Code § 1101.51(c)(3) were discussed at the September 2015 Medical Assistance Advisory Committee (MAAC). Based on public comments received, providers and consumers strongly support the rescission of this regulation. The matter was also discussed at the February 2016, April 2016, May 2016 and June 2016 MAAC meetings.

The Department presented information at the October 2015 Consumer Subcommittee of the MAAC about the draft SOP on shared space and the proposed removal of the regulation at 55 Pa. Code § 1101.51(c)(3). The Department also presented this information at the October 2015 Annual Conference of the Pennsylvania Association of Community Health Centers.

(15) Identify the types and number of persons, businesses, small businesses (as defined in Section 3 of the Regulatory Review Act, Act 76 of 2012) and organizations which will be affected by the regulation. How are they affected?

Nine co-located providers operating at 82 separate locations have previously requested and received a waiver of the regulation from the Secretary. Any provider who enrolled and was co-located with another provider after May 28, 2016 completed an attestation. Current waivers and attestations will remain in effect until final rulemaking eliminates the co-location provision in 55 Pa. Code § 1101.51(c)(3).

The Department does not have access to the information on the total revenue generated by each provider on IRS tax return forms. Therefore, the Department is unable to determine which co-located providers enrolled in the MA Program are small businesses as defined in 13 CFR, Ch. 1, Part 121 (relating to small business size regulations).

The rescission of this regulation provides the regulatory framework to promote integrated health care services by allowing providers to co-locate. Providers that want to co-locate in the future will be able to do so without obtaining a waiver or submitting an attestation. The proposed change to the regulation will not adversely affect any small business.

(16) List the persons, groups or entities, including small businesses, that will be required to comply with the regulation. Approximate the number that will be required to comply.

Nine co-located providers operating at 82 separate locations received waivers of the regulation. Any provider who enrolled after May 28, 2016 and was co-located with another provider, completed an attestation. These waivers and attestations will remain in effect until final rulemaking is published in the Pa. Bulletin, at which time these providers will be able to continue to co-locate without waivers or attestations. Additionally, other providers that want to co-locate in the future would be able to do so without obtaining a waiver or completing an attestation.

The Department does not know which, if any, co-located providers enrolled in the MA Program meet the definition of a small business because the Department does not have access to the information on the total revenue generated by each provider on IRS tax return forms. Therefore, the Department is unable to determine which providers enrolled in the MA Program are small businesses as defined in 13 CFR Part 121 (relating to small business size regulations).

(17) Identify the financial, economic and social impact of the regulation on individuals, small businesses, businesses and labor communities and other public and private organizations. Evaluate the benefits expected as a result of the regulation.

The Department anticipates no adverse financial, economic or social impact on small businesses, businesses and labor communities and other public and private organizations.

The Department recognizes and supports integrated health care, which increases access to quality health care services for beneficiaries. The rescission of the regulation will facilitate the ability of providers to co-locate, which supports more coordinated and integrated health care within the MA Program.

(18) Explain how the benefits of the regulation outweigh any cost and adverse effects.

The Department foresees no costs or adverse effects associated with the proposed regulation. Providers who have received a waiver of the regulation and providers who have co-location arrangements will benefit from this regulatory change as it facilitates their enrollment in the MA Program. MA beneficiaries will benefit from this proposed regulation because it provides access to services in a more integrated manner, consistent with developments in the health care industry. Therefore, the benefits of removing this regulation outweigh the costs.

(19) 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. Explain how the dollar estimates were derived.

The regulation would remove the need for co-located providers to seek a waiver or complete an attestation.

There is no fiscal impact to the regulated community.

(20) Provide a specific estimate of the costs and/or savings to the **local governments** associated with compliance, including any legal, accounting or consulting procedures which may be required. Explain how the dollar estimates were derived.

There is no fiscal impact to the local governments.

(21) Provide a specific estimate of the costs and/or savings to the **state government** associated with the implementation of the regulation, including any legal, accounting, or consulting procedures which may be required. Explain how the dollar estimates were derived.

There is no fiscal impact to the state government.

(22) For each of the groups and entities identified in items (19)-(21) above, submit a statement of legal, accounting or consulting procedures and additional reporting, recordkeeping or other paperwork, including copies of forms or reports, which will be required for implementation of the regulation and an explanation of measures which have been taken to minimize these requirements.

No legal, accounting or consulting procedures or additional reporting, recordkeeping or other paperwork is required to implement this proposed regulation.

(22a) Are forms required for implementation of the regulation?

No.

(22b) If forms are required for implementation of the regulation, **attach copies of the forms here**. If your agency uses electronic forms, provide links to each form or a detailed description of the information required to be reported. **Failure to attach forms, provide links, or provide a detailed description of the information to be reported will constitute a faulty delivery of the regulation.**

Not applicable.

Jovan Gelliger

06/01/2021

(23) 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:	\$0	\$0	\$0	\$0	\$0	\$0
Regulated Community	\$0	\$0	\$0	\$0	\$0	\$0
Local Government	\$0	\$0	\$0	\$0	\$0	\$0
State Government	\$0	\$0	\$0	\$0	\$0	\$0
Total Savings	\$0	\$0	\$0	\$0	\$0	\$0
COSTS:	\$0	\$0	\$0	\$0	\$0	\$0
Regulated Community	\$0	\$0	\$0	\$0	\$0	\$0
Local Government	\$0	\$0	\$0	\$0	\$0	\$0
State Government	\$0	\$0	\$0	\$0	\$0	\$0
Total Costs	\$0	\$0	\$0	\$0	\$0	\$0
REVENUE LOSSES:	\$0	\$0	\$0	\$0	\$0	\$0
Regulated Community	\$0	\$0	\$0	\$0	\$0	\$0
Local Government	\$0	\$0	\$0	\$0	\$0	\$0
State Government	\$0	\$0	\$0	\$0	\$0	\$0
Total Revenue Losses	\$0	\$0	\$0	\$0	\$0	\$0

(23a) Provide the past three-year expenditure history for programs affected by the regulation.

Program	FY -3	FY -2	FY -1	Current FY
MA – Capitation	\$3,106,676	\$3,303,613	\$2,507,519	\$2,594,022
MA - FFS	\$477,690	\$342,544	\$344,107	\$469,824

(24) For any regulation that may have an adverse impact on small businesses (as defined in Section 3 of the Regulatory Review Act, Act 76 of 2012), provide an economic impact statement that includes the following:

- (a) An identification and estimate of the number of small businesses subject to the regulation.
- (b) The projected reporting, recordkeeping and other administrative costs required for compliance with the proposed regulation, including the type of professional skills necessary for preparation of the report or record.
- (c) A statement of probable effect on impacted small businesses.
- (d) A description of any less intrusive or less costly alternative methods of achieving the purpose of the proposed regulation.

The regulation does not have any adverse impact on small businesses.

- (a) Small businesses who receive payment for services that are funded in part by Federal matching funds to MA FFS beneficiaries are subject to the regulation. The Department does not have access to full annual receipt information for MA enrolled providers and, therefore, is unable to estimate the number of providers that are small businesses.
- (b) There are no projected reporting, recordkeeping and other administrative costs required for compliance with the proposed regulation, including the type of professional skills necessary for preparation of the report or record.
- (c) The regulation does not have an adverse impact on small businesses. MA enrolled providers that qualify as small businesses will benefit from this regulation which supports integrated care by allowing payments to groups made up of different provider types. This promotes more coordination between unlike providers by reducing administrative burdens for different provider types working together.
- (d) There are no less intrusive or less costly alternative methods of achieving the purpose of the proposed regulation.

(25) List any special provisions which have been developed to meet the particular needs of affected groups or persons including, but not limited to, minorities, the elderly, small businesses, and farmers.

The Department has not identified any provisions that are necessary to meet the particular needs of affected groups or persons, so no special provisions have been developed.

(26) Include a description of any alternative regulatory provisions which have been considered and rejected and a statement that the least burdensome acceptable alternative has been selected.

The current regulation did not allow providers to co-locate. The rescission of § 1101.51(c)(3) is the least burdensome option to allow co-location.

(27) In conducting a regulatory flexibility analysis, explain whether regulatory methods were considered that will minimize any adverse impact on small businesses (as defined in Section 3 of the Regulatory Review Act, Act 76 of 2012), including:

- a) The establishment of less stringent compliance or reporting requirements for small businesses;
- b) The establishment of less stringent schedules or deadlines for compliance or reporting requirements for small businesses;
- c) The consolidation or simplification of compliance or reporting requirements for small

businesses;

- d) The establishment of performing standards for small businesses to replace design or operational standards required in the regulation; and
- e) The exemption of small businesses from all or any part of the requirements contained in the regulation.

The Department anticipates no adverse impact on small businesses.

(28) If data is the basis for this regulation, please provide a description of the data, explain in detail how the data was obtained, and how it meets the acceptability standard for empirical, replicable and testable data that is supported by documentation, statistics, reports, studies or research. Please submit data or supporting materials with the regulatory package. If the material exceeds 50 pages, please provide it in a searchable electronic format or provide a list of citations and internet links that, where possible, can be accessed in a searchable format in lieu of the actual material. If other data was considered but not used, please explain why that data was determined not to be acceptable.

Not applicable because data was not the basis for this regulation.

(29) Include a schedule for review of the regulation including:

- A. The length of the public comment period: 30 days
- B. The date or dates on which public meetings or hearings will be held: Not applicable
- C. The expected date of delivery of the final-form regulation: Spring 2022
- D. The expected effective date of the final-form regulation: Date of Publication of the Final-Form Regulation in the Pennsylvania Bulletin.
- E. The expected date by which compliance with the final-form regulation will be required: Not applicable
- F. The expected date by which required permits, licenses or other approvals must be obtained: Not applicable

(30) Describe the plan developed for evaluating the continuing effectiveness of the regulations after its implementation.

The Department reviews all regulations on an ongoing basis to ensure compliance with Federal and State laws and to assess the appropriateness and effectiveness of the regulation. In addition, specific regulatory issues raised by members of the Medical Assistance Advisory Committee (MAAC) or a subcommittee of the MAAC are researched and addressed, as needed. The Department also monitors the impact of regulations through regular audits and utilization management reviews to determine the effectiveness of related to beneficiaries of the MA Program.

CDL-1

FACE SHEET
FOR FILING DOCUMENTS
WITH THE LEGISLATIVE REFERENCE BUREAU

(Pursuant to Commonwealth Documents Law)

RECEIVED

JUN 10 2021

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>Amy M. <small>Deputy signed by Amy M. Elliott On: 2021-05-26 10:26:47 AM EDT Office of Attorney General, one Christ Burgess Building, Harrisburg, PA 17104-0001</small></p> <p>By: Elliott (Deputy Attorney General) 5/26/2021 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>DEPARTMENT OF HUMAN SERVICES (Agency)</p> <p>LEGAL COUNSEL: <u>Seroni Glantz Fletcher</u></p> <p>DOCUMENT/FISCAL NOTE NO. 14-549</p> <p>DATE OF ADOPTION: _____</p> <p>BY: <u></u></p> <p>TITLE: SECRETARY OF HUMAN SERVICES (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>Marisa H. Z. Zahn</u></p> <p>April 28, 2021 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

DEPARTMENT OF HUMAN SERVICES

OFFICE OF MEDICAL ASSISTANCE PROGRAMS

[55 Pa. Code Chapter 1101]

General Provisions

Interrelationship of Providers

Statutory Authority

The Department of Human Services (Department), under the authority of Article IV, section 403.1(a)(6) of the Human Services Code (code) (62 P.S. § 403.1(a)(6)), proposes to amend 55 Pa. Code § 1101.51 (relating to ongoing responsibilities of providers) to read as set forth in Annex A.

Purpose of the Proposed Rulemaking

The purpose of this proposed rulemaking is to amend 55 Pa. Code § 1101.51 by rescinding subsection (c)(3), which prohibits providers from leasing or renting space, shelves or equipment within a provider's office to another provider or from allowing the paid or unpaid staff of a provider to be placed in another provider's office.

Developments in the health care industry over the last several years have emphasized the need for integrated health care. The Department recognizes the benefits of integrated care, and the rescission of this regulation will support the enrollment in the MA Program of providers that share space ("co-locating providers"). By expanding provider qualifications to include co-locating providers, the Department seeks to support more coordinated and integrated care within the Medical Assistance (MA) Program.

Background

Section 1407(a)(2) of the code (62 P.S. § 1407(a)(2)) provides that it is unlawful to solicit or receive or to offer or pay any remuneration, including any kickback, bribe or rebate, directly or indirectly, in cash or in kind from or to any person in connection with the furnishing of services or merchandise for which payment may be in whole or in part under the MA Program or in connection with referring an individual to a person for the furnishing or arranging for the furnishing of any services or merchandise for which payment may be made in whole or in part under the MA Program. The Department promulgated the regulation at 55 Pa. Code § 1101.51(c)(3) to provide specific examples of the types of arrangements that Section 1407(a)(2) of the code prohibits. Among the examples is that providers may not “lease or rent space, shelves or equipment within a provider’s office to another provider or allowing the placement of paid or unpaid staff of another provider in a provider’s office.”

This regulation prevented co-locating providers from enrolling in the MA program. Since promulgation of this regulation, the health care industry has moved to a more integrated approach to diagnosis and treatment of conditions or injuries. To support that trend, retail clinics, some of which are placed within the same building as a pharmacy, have emerged, and multi-disciplinary providers including physical and behavioral health providers, have entered into co-location arrangements between distinct providers. These arrangements increase consumer access to services, including behavioral health and substance use disorder services. According to an informational bulletin issued by the Centers for Medicare & Medicaid Services (CMS) on January 16, 2014, titled “Reducing Non-Urgent Use of Emergency Departments and

Improving Appropriate Care in Appropriate Settings”, increasing access to primary care services, including through urgent care and retail clinics, has been estimated to result in a potential savings of \$4.4 billion nationwide. (<https://www.medicaid.gov/federal-policy-guidance/downloads/cib-01-16-14.pdf>). The Department, by establishing provider qualifications that incorporate co-locating providers, wishes to support these advancements in the health care industry when services are provided in a manner that allows the beneficiary to retain freedom to choose the service provider and is not automatically directed to or referred to a co-located provider.

After reviewing the trend in the health care delivery system toward integrated care, the Department determined that a narrow interpretation of the example set forth in the regulation at Section 1101.51(c)(3) is more restrictive than required to comply with the code, and prevents co-locating providers who are otherwise eligible from enrolling in the MA program. On May 28, 2016, the Department issued Statement of Policy (SOP) 1101-16-03 (formally published at 55 Pa. Code § 1101.51a) to clarify the meaning of “within a provider’s office” and the guidelines for providers that enter into co-location arrangements with other participating providers. See 46 Pa.B. 2683 (May 28, 2016); 55 Pa. Code § 1101.51a. The Department also developed an attestation form to be utilized by providers seeking to co-locate, in which each provider attests to its compliance with Federal and State anti-kickback laws, the Health Insurance Portability and Accountability Act of 1996 (HIPAA), and MA beneficiary freedom of choice. The Department will rescind the SOP upon the effective date of the final-form regulation.

In an effort to establish provider qualifications that allow co-locating providers to enroll in the MA program, the Department is rescinding the regulation at 55 Pa. Code § 1101.51(c)(3), which prohibits providers from leasing space within a provider's office to another provider. Providers must continue to comply with HIPAA, Federal and State anti-kickback and self-referral laws, and the requirement to provide MA beneficiaries with freedom of choice.

The rescission of the regulation at 55 Pa. Code § 1101.51(c)(3) does not invalidate other rules affecting co-locating providers if, for example, they are prohibited by licensing or certification requirements from leasing or renting space, shelves or equipment or otherwise shared space.

Requirements

The following is a summary of the specific provision in the proposed rulemaking:

§ 1101.51(c)(3) (relating to the interrelationship of providers)

The Department proposes to rescind this section to allow co-locating providers to enroll in the MA program and to support integrated health care in the MA Program. Removal of this section will allow MA beneficiaries to receive services in a more integrated manner, consistent with developments in the health care industry.

Affected Individuals and Organizations

Nine co-located providers operating at 82 separate locations have requested and received a waiver of the regulation at 55 Pa. Code § 1101.51(c)(3) from the Secretary. Pursuant to SOP 55 Pa. Code § 1101.51a, beginning May 28, 2016, any provider who enrolled and was co-located with another provider had to complete an attestation. Current waivers and attestations will remain in effect until final rulemaking eliminates the co-location provision in 55 Pa. Code § 1101.51(c)(3).

The rescission of this regulation provides the regulatory framework to promote integrated health care services by establishing provider qualification that allow providers that co-locate to enroll in the MA program. Providers that want to co-locate in the future will be able to do so without obtaining a waiver or submitting an attestation.

Accomplishments and Benefits

The proposed rulemaking rescinds the regulatory provision that has prevented or delayed enrollment of providers who are co-located. Allowing different types of providers to be located in the same space will benefit MA beneficiaries by providing the opportunity for a more integrated approach to health care.

Fiscal Impact

There is no fiscal impact.

Paperwork Requirements

This proposed rulemaking will require no additional reports or paperwork or any new forms. Less paperwork will be required because an attestation form will not be required for enrollment of providers that are co-located.

Effective Date

This rulemaking will be effective upon publication of the final-form regulation in the *Pennsylvania Bulletin*.

Public Comment

Interested persons are invited to submit written comments, suggestions or objections regarding the proposed rulemaking to the Department at the following address: Department of Human Services, Office of Medical Assistance Programs, c/o Regulations Coordinator, Room 515, Health and Welfare Building, Harrisburg, PA 17120, within 30 calendar days after the date of publication of this proposed rulemaking in the *Pennsylvania Bulletin*. Reference Regulation No. 14-549 when submitting comments.

Persons with a disability who require an auxiliary aid or service may submit comments by using the AT&T Relay Service at 1-800-654-5984 (TDD users) or 1-800-654-5988 (voice users).

Regulatory Review Act

Under § 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on June 10, 2021, the Department submitted a copy of this proposed rulemaking to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House Health Committee and the Senate Health and Human Services Committee. In addition to submitting the proposed rulemaking, the Department has provided the IRRC and the Committees with a copy of a Regulatory Analysis Form prepared by the Department. A copy of this form is available to the public upon request.

Under § 5(g) of the Regulatory Review Act, if the IRRC has any comments, recommendations or objections to any portion of the proposed regulation, it may notify the Department and the committees within 30 days after the close of the public comment period. Such notification shall specify the regulatory review criteria that have not been met. The Regulatory Review Act specifies detailed procedures for review by the Department, the General Assembly and the governor, of any comments, recommendations or objections raised, prior to final publication of the regulation.

MEG SNEAD
Secretary

ANNEX A
TITLE 55. PUBLIC WELFARE
PART III. MEDICAL ASSISTANCE MANUAL
CHAPTER 1101 GENERAL PROVISIONS

* * * * *

§ 1101.51. Ongoing responsibilities of providers.

* * * * *

(c) *Interrelationship of providers.* Providers are prohibited from making the following arrangements with other providers:

* * * * *

(3) [A participating provider may not lease or rent space, shelves or equipment within a provider's office to another provider or allowing the placement of paid or unpaid staff of another provider in a provider's office. This does not preclude a provider from owning or investing in a building in which space is leased for adequate and fair consideration to

other providers nor does it prohibit an ophthalmologist or optometrist from providing space to an optician in his office.

(4)] The solicitation or receipt or offer of a kickback, payment, gift, bribe or rebate for purchasing, leasing, ordering or arranging for or recommending purchasing, leasing, ordering or arranging for or recommending purchasing, leasing or ordering a good, facility, service or item for which payment is made under MA. This does not preclude discounts or other reductions in charges by a provider to a practitioner for services, that is, laboratory and x-ray, so long as the price is properly disclosed and appropriately reflected in the costs claimed or charges made by a practitioner.

[(5)] (4) A participating practitioner or professional corporation may not refer a MA recipient to an independent laboratory, pharmacy, radiology or other ancillary medical service in which the practitioner or professional corporation has an ownership interest.

* * * * *



COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF HUMAN SERVICES

June 10, 2021

The Honorable Michele Brooks
Senate of Pennsylvania
Harrisburg, Pennsylvania 17120

Dear Senator Brooks:

Enclosed is a proposed regulation that amends the Department of Human Services' (Department's) requirements relating to the ongoing responsibilities of Medical Assistance (MA) providers.

The proposed rulemaking is needed to amend § 1101.51 by rescinding subsection (c)(3) (relating to the interrelationship of providers), which prohibits providers that share space ("co-locating providers") from enrolling in the MA program. Developments in the health care industry over the last several years have emphasized the need for integrated health care. Rescinding subsection (c)(3) will facilitate the ability of co-locating providers to enroll in the MA Program.

This proposed rulemaking, which amends *Pennsylvania Code*, Title 55, Chapter 1101, General Provisions, is submitted for review by your committee pursuant to the Regulatory Review Act.

The Department will provide your committee with any assistance required to facilitate a thorough review of this proposal.

Sincerely,

A handwritten signature in black ink, appearing to read "M. Snead".

M. Snead
Acting Secretary

Enclosure

OFFICE OF THE SECRETARY



COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF HUMAN SERVICES

June 10, 2021

The Honorable Art Haywood
Senate of Pennsylvania
Harrisburg, Pennsylvania 17120

Dear Senator Haywood:

Enclosed is a proposed regulation that amends the Department of Human Services' (Department's) requirements relating to the ongoing responsibilities of Medical Assistance (MA) providers.

The proposed rulemaking is needed to amend § 1101.51 by rescinding subsection (c)(3) (relating to the interrelationship of providers), which prohibits providers that share space ("co-locating providers") from enrolling in the MA program. Developments in the health care industry over the last several years have emphasized the need for integrated health care. Rescinding subsection (c)(3) will facilitate the ability of co-locating providers to enroll in the MA Program.

This proposed rulemaking, which amends *Pennsylvania Code*, Title 55, Chapter 1101, General Provisions, is submitted for review by your committee pursuant to the Regulatory Review Act.

The Department will provide your committee with any assistance required to facilitate a thorough review of this proposal.

Sincerely,

A handwritten signature in black ink, appearing to read "M. Snead".

M. Snead
Acting Secretary

Enclosure

OFFICE OF THE SECRETARY

P.O. BOX 2675, HARRISBURG, PA 17105 | 717.787.2600/3600 FAX:717.772.2062 | www.dhs.pa.gov



COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF HUMAN SERVICES

June 10, 2021

The Honorable Kathy L. Rapp
House of Representatives
Harrisburg, Pennsylvania 17120

Dear Representative Rapp:

Enclosed is a proposed regulation that amends the Department of Human Services' (Department's) requirements relating to the ongoing responsibilities of Medical Assistance (MA) providers.

The proposed rulemaking is needed to amend § 1101.51 by rescinding subsection (c)(3) (relating to the interrelationship of providers), which prohibits providers that share space ("co-locating providers") from enrolling in the MA program. Developments in the health care industry over the last several years have emphasized the need for integrated health care. Rescinding subsection (c)(3) will facilitate the ability of co-locating providers to enroll in the MA Program.

This proposed rulemaking, which amends *Pennsylvania Code*, Title 55, Chapter 1101, General Provisions, is submitted for review by your committee pursuant to the Regulatory Review Act.

The Department will provide your committee with any assistance required to facilitate a thorough review of this proposal.

Sincerely,

A handwritten signature in black ink, appearing to read "M. Snead".

M. Snead
Acting Secretary

Enclosure

OFFICE OF THE SECRETARY



COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF HUMAN SERVICES

June 10, 2021

The Honorable Dan Frankel
House of Representatives
Harrisburg, Pennsylvania 17120

Dear Representative Frankel:

Enclosed is a proposed regulation that amends the Department of Human Services' (Department's) requirements relating to the ongoing responsibilities of Medical Assistance (MA) providers.

The proposed rulemaking is needed to amend § 1101.51 by rescinding subsection (c)(3) (relating to the interrelationship of providers), which prohibits providers that share space ("co-locating providers") from enrolling in the MA program. Developments in the health care industry over the last several years have emphasized the need for integrated health care. Rescinding subsection (c)(3) will facilitate the ability of co-locating providers to enroll in the MA Program.

This proposed rulemaking, which amends *Pennsylvania Code*, Title 55, Chapter 1101, General Provisions, is submitted for review by your committee pursuant to the Regulatory Review Act.

The Department will provide your committee with any assistance required to facilitate a thorough review of this proposal.

Sincerely,

A handwritten signature in black ink, appearing to read "M. Snead".

M. Snead
Acting Secretary

Enclosure

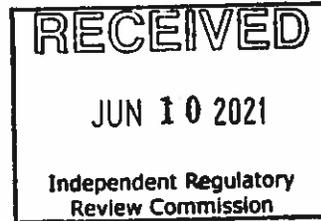
OFFICE OF THE SECRETARY

Stephen Hoffman

From: Bradbury, Joan <jbradbury@pasen.gov>
Sent: Thursday, June 10, 2021 11:18 AM
To: Dietrich, Dawn
Cc: Abelson, Addie
Subject: RE: 14-549 OMAP Interrelationship of Providers Proposed Rulemaking

Follow Up Flag: Follow up
Flag Status: Flagged

Received. Thank you



Joan Bradbury
Executive Director
Senate Health & Human Services Committee
Office of Senator Michele Brooks
168 Main Capitol Building
717-787-1475 (direct)

From: Dietrich, Dawn <dadietrich@pa.gov>
Sent: Thursday, June 10, 2021 10:57 AM
To: Bradbury, Joan <jbradbury@pasen.gov>
Cc: Abelson, Addie <aabelson@pa.gov>
Subject: 14-549 OMAP Interrelationship of Providers Proposed Rulemaking
Importance: High

⦿ CAUTION : External Email ⦿

Good morning.

We are submitting Proposed Rulemaking – Interrelationship of Providers (Reg. No. 14-549) to the Senate Health and Human Services Committee and the House Health Committee.

Please provide written (email) confirmation that this rulemaking was received by the Committee chair’s office.

Thank you,

Dawn

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Dawn Dietrich | Administrative Officer 2
Department of Human Services | Governor's Office of General Counsel
625 Forster Street, 3rd Floor West | Harrisburg, PA 17120
Phone: 717.787.6398 | Fax: 717.772.0717
www.dhs.pa.gov

Stephen Hoffman

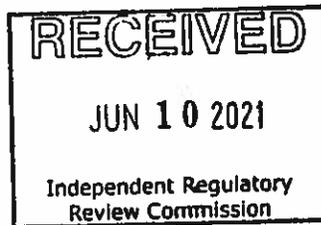
From: Freeman, Clarissa <Clarissa.Freeman@pasenate.com>
Sent: Thursday, June 10, 2021 11:08 AM
To: Dietrich, Dawn
Cc: Abelson, Addie
Subject: RE: 14-549 OMAP Interrelationship of Providers Proposed Rulemaking

Follow Up Flag: Follow up
Flag Status: Flagged

Received.

Thank you,

Clarissa L Freeman, Esq.
Health and Human Services Committee
Senate of Pennsylvania
Office of Senator Art Haywood



10 East Wing, Main Capitol Building
Harrisburg, Pennsylvania 17120-3004
717-787-1427 (P)
717-772-0572 (F)

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From: Dietrich, Dawn <dadietrich@pa.gov>
Sent: Thursday, June 10, 2021 10:58 AM
To: Freeman, Clarissa <Clarissa.Freeman@pasenate.com>
Cc: Abelson, Addie <adabelson@pa.gov>
Subject: 14-549 OMAP Interrelationship of Providers Proposed Rulemaking
Importance: High

■ EXTERNAL EMAIL ■

Good morning.

We are submitting Proposed Rulemaking – Interrelationship of Providers (Reg. No. 14-549) to the Senate Health and Human Services Committee and the House Health Committee.

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Thank you,

Dawn

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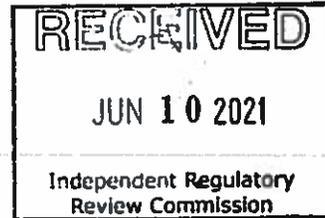
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Stephen Hoffman

From: Whitney Metzler <Wmetzler@pahousegop.com>
Sent: Thursday, June 10, 2021 11:03 AM
To: Dietrich, Dawn
Subject: RE: 14-549 OMAP Interrelationship of Providers Proposed Rulemaking

Follow Up Flag: Follow up
Flag Status: Flagged

Received.



From: Dietrich, Dawn <dadietrich@pa.gov>
Sent: Thursday, June 10, 2021 10:59 AM
To: Whitney Metzler <Wmetzler@pahousegop.com>
Cc: Abelson, Addie <aabelson@pa.gov>
Subject: 14-549 OMAP Interrelationship of Providers Proposed Rulemaking
Importance: High

Good morning.

We are submitting Proposed Rulemaking – Interrelationship of Providers (Reg. No. 14-549) to the Senate Health and Human Services Committee and the House Health Committee.

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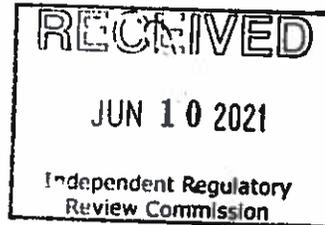
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Stephen Hoffman

From: Fricke, Erika L. <EFricke@pahouse.net>
Sent: Thursday, June 10, 2021 11:12 AM
To: Dietrich, Dawn
Subject: Re: 14-549 OMAP Interrelationship of Providers Proposed Rulemaking
Attachments: image001.gif

Follow Up Flag: Follow up
Flag Status: Flagged



Received!

Sent from my iPad

On Jun 10, 2021, at 11:04 AM, Dietrich, Dawn <dadietrich@pa.gov> wrote:

<image001.gif>
Good morning.

We are submitting Proposed Rulemaking – Interrelationship of Providers (Reg. No. 14-549) to the Senate Health and Human Services Committee and the House Health Committee.

Please provide written (email) confirmation that this rulemaking was received by the Committee chair's office.

Thank you,

Dawn

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<14-549 Frankel packet.fn1.pdf>

Stephen Hoffman

From: Bulletin <bulletin@palrb.us>
Sent: Thursday, June 10, 2021 11:18 AM
To: Dietrich, Dawn
Cc: Abelson, Addie
Subject: [External] RE: 14-549 OMAP Interrelationship of Providers Proposed Rulemaking

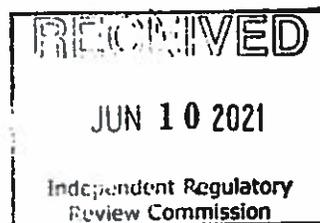
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Good Morning Dawn:

Thank you for sending PRM 14-549. Someone from our office will contact you regarding the publication date in the *Pennsylvania Bulletin*. Take care and have a great day!

Corinne Marut
Editorial Assistant
Legislative Reference Bureau
Pennsylvania Code & Bulletin Office
647 Main Capitol Building
Harrisburg, PA 17120-0033
cmarut@palrb.us



From: Dietrich, Dawn <dadietrich@pa.gov>
Sent: Thursday, June 10, 2021 11:12 AM
To: Bulletin <bulletin@palrb.us>
Cc: Abelson, Addie <adabelson@pa.gov>
Subject: 14-549 OMAP Interrelationship of Providers Proposed Rulemaking
Importance: High

Good morning.

We are submitting Proposed Rulemaking – Interrelationship of Providers (Reg. No. 14-549). This regulation has been submitted to both the Senate Health and Human Services Committee and the House Health Committee this morning.

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Thank you,

Dawn

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