

Michigan Department of Licensing and Regulatory Affairs  
**Office of Regulatory Reinvention**  
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**REGULATORY IMPACT STATEMENT  
and  
COST-BENEFIT ANALYSIS**

**PART 1: INTRODUCTION**

In accordance with the Administrative Procedures Act (APA) [1969 PA 306], the department/agency responsible for promulgating the administrative rules must complete and submit this form electronically to the Office of Regulatory Reinvention (ORR) no less than (28) days before the public hearing [MCL 24.245(3)-(4)]. Submissions should be made by the departmental Regulatory Affairs Officer (RAO) to **orr@michigan.gov**. The ORR will review the form and send its response to the RAO (see last page). Upon review by the ORR, the agency shall make copies available to the public at the public hearing [MCL 24.245(4)].

Please place your cursor in each box, and answer the question completely.

**ORR-assigned rule set number:**

2012-002 LR

**ORR rule set title:**

Hearing Rules – Social Welfare Act

**Department:**

Licensing and Regulatory Affairs

**Agency or Bureau/Division**

Michigan Administrative Hearing System

**Name and title of person completing this form; telephone number:**

Michael Zimmer, 373-2792

**Reviewed by Department Regulatory Affairs Officer:**

Liz Arasim  
Department of Licensing and Regulatory Affairs

## **PART 2: APPLICABLE SECTIONS OF THE APA**

### **MCL 24.207a “Small business” defined.**

Sec. 7a.

“Small business” means a business concern incorporated or doing business in this state, including the affiliates of the business concern, which is independently owned and operated and which employs fewer than 250 full-time employees or which has gross annual sales of less than \$6,000,000.00.”

### **MCL 24.240 Reducing disproportionate economic impact of rule on small business; applicability of section and MCL 24.245(3).**

Sec. 40.

(1) When an agency proposes to adopt a rule that will apply to a small business and the rule will have a disproportionate impact on small businesses because of the size of those businesses, the agency shall consider exempting small businesses and, if not exempted, the agency proposing to adopt the rule shall reduce the economic impact of the rule on small businesses by doing all of the following when it is lawful and feasible in meeting the objectives of the act authorizing the promulgation of the rule:

(a) Identify and estimate the number of small businesses affected by the proposed rule and its probable effect on small businesses.

(b) Establish differing compliance or reporting requirements or timetables for small businesses under the rule after projecting the required reporting, record-keeping, and other administrative costs.

(c) Consolidate, simplify, or eliminate the compliance and reporting requirements for small businesses under the rule and identify the skills necessary to comply with the reporting requirements.

(d) Establish performance standards to replace design or operational standards required in the proposed rule.

(2) The factors described in subsection (1)(a) to (d) shall be specifically addressed in the small business impact statement required under section 45.

(3) In reducing the disproportionate economic impact on small business of a rule as provided in subsection (1), an agency shall use the following classifications of small business:

(a) 0-9 full-time employees.

(b) 10-49 full-time employees.

(c) 50-249 full-time employees.

(4) For purposes of subsection (3), an agency may include a small business with a greater number of full-time employees in a classification that applies to a business with fewer full-time employees.

(5) This section and section 45(3) do not apply to a rule that is required by federal law and that an agency promulgates without imposing standards more stringent than those required by the federal law.

**MCL 24.245 (3)** “Except for a rule promulgated under sections 33, 44, and 48, the agency shall prepare and include with the notice of transmittal a **regulatory impact statement** containing...” (information requested on the following pages).

[**Note:** Additional questions have been added to these statutorily-required questions to satisfy the **cost-benefit analysis** requirements of Executive Order 2011-5.]

**MCL 24.245b Information to be posted on office of regulatory reinvention website.**

Sec. 45b. (1) The office of regulatory reinvention shall post the following on its website within 2 business days after transmittal pursuant to section 45:

- (a) The regulatory impact statement required under section 45(3).
  - (b) Instructions on any existing administrative remedies or appeals available to the public.
  - (c) Instructions regarding the method of complying with the rules, if available.
  - (d) Any rules filed with the secretary of state and the effective date of those rules.
- (2) The office of regulatory reinvention shall facilitate linking the information posted under subsection (1) to the department or agency website.

### PART 3: DEPARTMENT/AGENCY RESPONSE

Please place your cursor in each box, and provide the required information, using complete sentences. Please do not answer the question with “N/A” or “none.”

#### Comparison of Rule(s) to Federal/State/Association Standards:

(1) Compare the proposed rule(s) to parallel federal rules or standards set by a state or national licensing agency or accreditation association, if any exist. Are these rule(s) required by state law or federal mandate? If these rule(s) exceed a federal standard, please identify the federal standard or citation, and describe why it is necessary that the proposed rule(s) exceed the federal standard or law, and specify the costs and benefits arising out of the deviation.

The federal Social Security Act and public welfare acts require the states to have in place a hearing system that adheres to due process. In its public welfare state plans, Michigan agreed to hold hearings for aggrieved public welfare applicants or recipients. The Code of Federal Regulations requires that the hearing be held at a reasonable time and location. The proposed rules address the due process ability to present a case to a hearings officer and the hearing location, and do not exceed the federal regulation.

(2) Compare the proposed rule(s) to standards in similarly situated states, based on geographic location, topography, natural resources, commonalities, or economic similarities. If the rule(s) exceed standards in those states, please explain why, and specify the costs and benefits arising out of the deviation.

The movement toward increased usage of telephone and video conference hearings is in line with other states' central panel adjudicative entities, as well as other adjudicative subject areas within the Michigan Administrative Hearing System (MAHS).

(3) Identify any laws, rules, and other legal requirements that may duplicate, overlap, or conflict with the proposed rule(s). Explain how the rule has been coordinated, to the extent practicable, with other federal, state, and local laws applicable to the same activity or subject matter. This section should include a discussion of the efforts undertaken by the agency to avoid or minimize duplication.

None

#### Purpose and Objectives of the Rule(s):

(4) Identify the behavior and frequency of behavior that the proposed rule(s) are designed to alter. Estimate the change in the frequency of the targeted behavior expected from the proposed rule(s). Describe the difference between current behavior/practice and desired behavior/practice. What is the desired outcome?

The rule is intended to provide greater flexibility in the scheduling and holding of contested cases and to ensure efficient handling of hearing records.

(5) Identify the harm resulting from the behavior that the proposed rule(s) are designed to alter and the likelihood that the harm will occur in the absence of the rule. What is the rationale for changing the rule(s) and not leaving them as currently written?

Increasing caseloads and increasing burdens placed by those caseloads on MAHS and local Department of Human Services (DHS) office staff have necessitated that MAHS reexamine all hearing protocols to increase service and the speed with which MAHS is able to afford hearings to recipients and other parties.

(6) Describe how the proposed rule(s) protect the health, safety, and welfare of Michigan citizens while promoting a regulatory environment in Michigan that is the least burdensome alternative for those required to comply.

The proposed rule will protect the welfare of Michigan citizens by providing access to a hearing that is

less burdensome and more technologically advanced than traditional in-person hearings. The technology will allow for parties to have access to a hearing without having to take extra time off from work to travel to an in-person hearing, or arrange for transportation to an in-person hearing, or schedule extra child care to attend a hearing. It also protects the health and safety of Michigan citizens by allowing an appellant with a disability, or the parent or guardian, to remain in the safety and comfort of his or her residence for the hearing.

(7) Describe any rules in the affected rule set that are obsolete, unnecessary, and can be rescinded.

Not Applicable.

### **Fiscal Impact on the Agency:**

Fiscal impact is an increase or decrease in expenditures from the current level of expenditures, i.e. hiring additional staff, an increase in the cost of a contract, programming costs, changes in reimbursement rates, etc. over and above what is currently expended for that function. It would not include more intangible costs or benefits, such as opportunity costs, the value of time saved or lost, etc., unless those issues result in a measurable impact on expenditures.

(8) Please provide the fiscal impact on the agency (an estimate of the cost of rule imposition or potential savings on the agency promulgating the rule).

Savings are estimated to be more in time—the expediency for an appellant to have a hearing held from the time the request for hearing is received to the time the hearing is conducted—than in dollars. The new provision requiring prior submittal of documentary evidence should result in fewer adjournments, which may result in cost savings. Savings in Administrative Law Judge (ALJ) travel costs also will be achieved.

(9) Describe whether or not an agency appropriation has been made or a funding source provided for any expenditures associated with the proposed rule(s).

No specific appropriation will be required to implement the rule.

### **Impact on Other State or Local Governmental Units:**

(10) Estimate any increase or decrease in revenues to other state or local governmental units (i.e. cities, counties, school districts) as a result of the rule. Estimate the cost increases or reductions on other state or local governmental units (i.e. cities, counties, school districts) as a result of the rule. Please include the cost of equipment, supplies, labor, and increased administrative costs, in both the initial imposition of the rule and any ongoing monitoring.

The rule will result in increased processing efficiencies for local DHS offices. There will be a decrease in expenditures because fewer local DHS office spaces will need to be utilized, the scheduling and coordination by local staff will be reduced, and case actions will be more quickly resolved instead of pending or remaining open.

(11) Discuss any program, service, duty or responsibility imposed upon any city, county, town, village, or school district by the rule(s). Describe any actions that governmental units must take to be in compliance with the rule(s). This section should include items such as record keeping and reporting requirements or changing operational practices.

Not Applicable

(12) Describe whether or not an appropriation to state or local governmental units has been made or a funding source provided for any additional expenditures associated with the proposed rule(s).

Not Applicable.

### **Rural Impact:**

(13) In general, what impact will the rules have on rural areas? Describe the types of public or private interests in rural areas that will be affected by the rule(s).

None

**Environmental Impact:**

(14) Do the proposed rule(s) have any impact on the environment? If yes, please explain.

None

**Small Business Impact Statement:**

*[Please refer to the discussion of “small business” on page 2 of this form.]*

(15) Describe whether and how the agency considered exempting small businesses from the proposed rules.

None

(16) If small businesses are not exempt, describe (a) the manner in which the agency reduced the economic impact of the proposed rule(s) on small businesses, including a detailed recitation of the efforts of the agency to comply with the mandate to reduce the disproportionate impact of the rule(s) upon small businesses as described below (in accordance with MCL 24.240(1)(A-D)), or (b) the reasons such a reduction was not lawful or feasible.

The rules will primarily apply to private citizens and state agencies – not small businesses.

(A) Identify and estimate the number of small businesses affected by the proposed rule(s) and the probable effect on small business.

Not Applicable

(B) Describe how the agency established differing compliance or reporting requirements or timetables for small businesses under the rule after projecting the required reporting, record-keeping, and other administrative costs.

Not Applicable

(C) Describe how the agency consolidated or simplified the compliance and reporting requirements and identify the skills necessary to comply with the reporting requirements.

Not Applicable

(D) Describe how the agency established performance standards to replace design or operation standards required by the proposed rules.

Not Applicable

(17) Identify any disproportionate impact the proposed rule(s) may have on small businesses because of their size or geographic location.

Not Applicable

(18) Identify the nature of any report and the estimated cost of its preparation by small business required to comply with the proposed rule(s).

Not Applicable

(19) Analyze the costs of compliance for all small businesses affected by the proposed rule(s), including costs of equipment, supplies, labor, and increased administrative costs.

Not Applicable

(20) Identify the nature and estimated cost of any legal, consulting, or accounting services that small businesses would incur in complying with the proposed rule(s).

Not Applicable

(21) Estimate the ability of small businesses to absorb the costs without suffering economic harm and without adversely affecting competition in the marketplace.

Not Applicable

(22) Estimate the cost, if any, to the agency of administering or enforcing a rule that exempts or sets lesser standards for compliance by small businesses.

Not Applicable

(23) Identify the impact on the public interest of exempting or setting lesser standards of compliance for small businesses.

Not Applicable

(24) Describe whether and how the agency has involved small businesses in the development of the proposed rule(s). If small business was involved in the development of the rule(s), please identify the business(es).

Not Applicable

**Cost-Benefit Analysis of Rules (independent of statutory impact):**

(25) Estimate the actual statewide compliance costs of the rule amendments on businesses or groups. Identify the businesses or groups who will be directly affected by, bear the cost of, or directly benefit from the proposed rule(s). What additional costs will be imposed on businesses and other groups as a result of these proposed rules (i.e. new equipment, supplies, labor, accounting, or recordkeeping)? Please identify the types and number of businesses and groups. Be sure to quantify how each entity will be affected.

None

(26) Estimate the actual statewide compliance costs of the proposed rule(s) on individuals (regulated individuals or the public). Please include the costs of education, training, application fees, examination fees, license fees, new equipment, supplies, labor, accounting, or recordkeeping). How many and what category of individuals will be affected by the rules? What qualitative and quantitative impact does the proposed change in rule(s) have on these individuals?

There will be minimal training costs to local DHS offices.

(27) Quantify any cost reductions to businesses, individuals, groups of individuals, or governmental units as a result of the proposed rule(s).

Increased scheduling efficiencies may result in staff savings to local DHS offices.

(28) Estimate the primary and direct benefits and any secondary or indirect benefits of the proposed rule(s). Please provide both quantitative and qualitative information, as well as your assumptions.

Not Applicable

(29) Explain how the proposed rule(s) will impact business growth and job creation (or elimination) in Michigan.

Not Applicable

(30) Identify any individuals or businesses who will be disproportionately affected by the rules as a result of their industrial sector, segment of the public, business size, or geographic location.

None

(31) Identify the sources the agency relied upon in compiling the regulatory impact statement, including the methodology utilized in determining the existence and extent of the impact of a proposed rule(s) and a cost-benefit analysis of the proposed rule(s). How were estimates made, and what were your assumptions? Include internal and external sources, published reports, information provided by associations or organizations, etc., which demonstrate a need for the proposed rule(s).

The agency based the RIS on a statistical analysis of MAHS-DHS case intake levels and locations.

**Alternatives to Regulation:**

(32) Identify any reasonable alternatives to the proposed rule(s) that would achieve the same or similar goals. In enumerating your alternatives, please include any statutory amendments that may be necessary to achieve such alternatives.

Hearings are required under federal and state law. The alternative to telephone and video conference hearings is the current method, which is an in-person hearing at which the claimant and an administrative law judge must be present, requiring travel to the district office. The in-person method is not prohibited under the new rules, but it is not as efficient as the proposed methods.

(33) Discuss the feasibility of establishing a regulatory program similar to that proposed in the rule(s) that would operate through private market-based mechanisms. Please include a discussion of private market-based systems utilized by other states.

Hearings must be held by merit-based state employees and an impartial hearing officer, pursuant to the Michigan Administrative Procedures Act. No private mechanism is currently available.

(34) Discuss all significant alternatives the agency considered during rule development and why they were not incorporated into the rule(s). This section should include ideas considered both during internal discussions and discussions with stakeholders, affected parties, or advisory groups.

No other alternatives were discussed.

**Additional Information**

(33) As required by MCL 24.245b(1)(c), please describe any instructions regarding the method of complying with the rules, if applicable.

None

**PART 4: REVIEW BY THE ORR**

**Date Regulatory Impact Statement (RIS) received:**

10-24-2013

<b>Date RIS approved:</b>	<b>10/30/2012</b>
<b>ORR assigned rule set number:</b>	<b>2012-002 LR</b>

<b>Date of disapproval:</b>	Explain:
<b>More information needed:</b>	Explain:

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(ORR-RIS October 2012)