

Regulatory Flexibility Analysis for Small Businesses and Local Governments (RFA)

1. Effect of rule

The proposed regulation seeks to amend the drug formulary prior authorization process to include medical marijuana, and to update the drug formulary itself. Any medical provider utilizing the drug formulary will be affected by this rule across New York State, and some of these may be small businesses.

2. Compliance requirements

All medical providers treating injured workers and carriers, self-insured employers and third-party administrators paying workers' compensation claims must comply with the amended regulations and prior authorization process. The proposed amendments include medical marijuana in the prior authorization process, rather through the Medical Treatment Guideline's variance process. As with prior authorization requests that currently flow through the Medical Treatment Guidelines variance process, a medical marijuana prior authorization request must meet the requirement established in New York State Law and by the Department of Health. This change is one of form. It does not change the content of the request.

3. Professional services

It is believed that no professional services will be needed by small businesses or local governments to comply with the proposed regulation.

4. Compliance costs

Compliance with the proposed regulations should not impose compliance costs on small businesses or local governments, as they already must comply with the current prior authorization process. There are no additional expected costs associated with the proposal, as the elements in the regulation are currently required in the variance process and the proposal simply changes the method for the medical marijuana approval process from the current variance process to the drug formulary prior approval process.

5. Economic and technological feasibility

Compliance with the proposal is economically and technologically feasible for small businesses and local governments. The proposal allows for an electronic process, but it is expected that these businesses and local governments already utilize this technology.

6. Minimizing adverse impact

The proposed regulations were written to address past confusion and provide greater detail and clarity to avoid further questions and confusion about the variance process.

7. Small business and local government participation

The Board has sent an electronic communication describing the proposal to subscribers for Board updates (6,364 health care providers and 3,960 employers) on February 19, 2021.

The Board has also accepted feedback from small businesses or local governments continuously in updating the formulary, and will also duly consider all public comments received from small businesses or local governments during the public comment period.