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SMALL BUSINESS IMPACT STATEMENT FOR R-056-16

The Department of Health and Human Services has determined that the proposed Nevada Administrative Code change would not have a negative impact on small businesses in Nevada, and may deliver positive impact.

A small business is defined in Nevada Revised Statutes NRS 233B as a "business conducted for profit which employs fewer than 150 full-time or part-time employees."

This small business impact statement is made pursuant to NRS 233B.0608 (3) and complies with the requirements of NRS 233B.0609. As required by NRS 233B.0608(3), this statement identifies the methods used by the agency in determining the impact of the proposed regulation on a small business in sections 1, 2, 3, and 4 below and provides the reasons for the conclusions of the agency in section 8 below followed by the certification by the person responsible for the agency.

Background

Under existing law, the Director of the Department of Health and Human Services is required to establish a statewide health information exchange system and a governing entity for the system. SB48, enacted in the 78th Legislative Session, eliminated the requirement that the Director establish a statewide health information exchange system, and requires the Director to establish a regulation for health information exchanges. This proposed regulation prescribes the requirements for a statewide health information exchange.

1) A description of the manner in which comment was solicited from affected small businesses, a summary of their response and an explanation of the manner in which other interested persons may obtain a copy of the summary.

Pursuant to NRS 233B.0608 (2)(a), the Department of Health and Human Services made a concerted effort to determine whether the proposed Nevada Administrative Code is likely to impose an economic burden upon a small business. There is one Health Information Exchange (HIE) operating in Nevada, HealthInsight, which was provided the Small Business Impact Questionnaire, along with a copy of the proposed regulation on April 7, 2016. In addition, the Questionnaire was distributed as follows:

- Emailed to approximately 500 addresses from the following lists on April 7, 2016:
    - HIT Stakeholder list, developed by the Nevada HIE Board
    - Division of Health Care Financing & Policy's Provider Association List (which includes medical licensing boards, hospitals, university medical centers, and HMOs).

- A web announcement was made on April 14, 2016 on the Division of Health Care Financing & Policy's Provider Web Portal (accessible by all Medicaid enrolled providers).

- Posted to the Department of Health and Human Services website on April 7, 2016

The questions on the questionnaire were:

1) How many employees are currently employed by your business?
2) Will a specific regulation have an adverse economic effect upon your business?
3) Will the regulation(s) have any beneficial effect upon your business?
4) Do you anticipate any indirect adverse effects upon your business?
5) Do you anticipate any indirect beneficial effects upon your business?

Summary of Response

Summary Of Comments Received **2 responses were received**[i]			
Will a specific regulation have an adverse economic effect upon your business?	**Will the regulation (s) have any beneficial effect upon your business?**	**Do you anticipate any indirect adverse effects upon your business?**	**Do you anticipate any indirect beneficial effects upon your business?**
No – 2 Yes - 0	No – 1 Yes - 1	No – 2 Yes – 0	No – 1 Yes - 1
	Comments: A regulatory framework may assist HIE participants to determine a low risk to participation and increase participation.		Comments: Clarification of the consent process may foster additional HIE adoption.

2) Describe the manner in which the analysis was conducted.

The analysis is comprised of feedback from stakeholders compiled by the HIT Project Manager.

3) The estimated economic effect of the proposed regulation on the small business which it is to regulate including, without limitation both adverse and beneficial effects and both direct and indirect effects.

No adverse economic effects were identified. Direct beneficial effects include the potential that the regulatory framework may increase participation in the HIE.

4) Provide a description of the methods that the agency considered to reduce the impact of the proposed regulation on small businesses and a statement regarding whether the agency actually used any of those methods.

Because the proposed NAC is intended to add clarity to the existing regulations and remove the burden of an unknown regulatory environment in order to have a favorable impact upon small businesses, there was not need to consider any method to reduce the impact.

5) **The estimated cost to the agency for enforcement of the proposed regulation.**

The estimated annual cost to the agency for enforcement of the proposed regulation is $66,809.85 dollars.

6) **If the proposed regulation provides a new fee or increases an existing fee, the total annual amount the Department of Health and Human Services expects to collect and the manner in which the money will be used.**

There are no existing fees and this NAC does not impose any new fees.

7) **An explanation of why any duplicative or more stringent provisions than federal, state or local standards regulating the same activity are necessary.**

The Health Information Portability and Accountability Act and the Health Information Technology for Economic and Clinical Health Act provide a regulatory framework for handling protected health information from an administrative and technical standpoint, but do not detail the framework under which an HIE operates. This NAC will provide regulatory support for participation in an HIE in Nevada.

8) **Provide a summary of the reasons for the conclusions of the agency regarding the impact of a regulation on small businesses.**

The Department's conclusion regarding impact to small business is based on feedback provided by stakeholders. The conclusion is that the proposed regulations would have no negative impact, and that there is a potential for a positive impact as a result of increased participation.

Any other persons interested in obtaining a copy of the summary may e-mail, call, or mail in a request to:

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Certification by Person Responsible for the Agency

I, Richard Whitley, Director of the Department of Health and Human Services, certify to the best of my knowledge or belief, a concerted effort was made to determine the impact of the proposed regulation on small businesses and the information contained in this statement was prepared properly and is accurate.

Signature: Dena Schmidt for Richard Whitley Date: 5/2/2016

[i] A third questionnaire was submitted, however the submitter assumed a requirement to participate in the HIE, which she indicated would be overly burdensome. Staff reached out to her to clarify that participation is not a requirement nor are fees assessed. This survey was not included in the summary of responses.