

Final Proposed Filing - Coversheet

Instructions:

In accordance with Title 3 Chapter 25 of the Vermont Statutes Annotated and the “Rule on Rulemaking” adopted by the Office of the Secretary of State, this filing will be considered complete upon filing and acceptance of these forms with the Office of the Secretary of State, and the Legislative Committee on Administrative Rules.

All forms shall be submitted at the Office of the Secretary of State, no later than 3:30 pm on the last scheduled day of the work week.

The data provided in text areas of these forms will be used to generate a notice of rulemaking in the portal of “Proposed Rule Postings” online, and the newspapers of record if the rule is marked for publication. Publication of notices will be charged back to the promulgating agency.

PLEASE REMOVE ANY COVERSHEET OR FORM NOT REQUIRED WITH THE CURRENT FILING BEFORE DELIVERY!

Certification Statement: As the adopting Authority of this rule (see 3 V.S.A. § 801 (b) (11) for a definition), I approve the contents of this filing entitled:

VPharm Coverage

/s/ Todd W. Daloz , on 4/4/24
(signature) (date)

Printed Name and Title:

Todd Daloz, Deputy Secretary, Agency of Human Services

RECEIVED BY: _____

- Coversheet
- Adopting Page
- Economic Impact Analysis
- Environmental Impact Analysis
- Strategy for Maximizing Public Input
- Scientific Information Statement (if applicable)
- Incorporated by Reference Statement (if applicable)
- Clean text of the rule (Amended text without annotation)
- Annotated text (Clearly marking changes from previous rule)
- ICAR Minutes
- Copy of Comments
- Responsiveness Summary

280 State Drive – Center Building
Waterbury, VT 05671-1000



OFFICE OF THE SECRETARY
TEL: (802) 241-0440
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JENNEY SAMUELSON
SECRETARY

TODD W. DALOZ
DEPUTY SECRETARY

STATE OF VERMONT
AGENCY OF HUMAN SERVICES

MEMORANDUM

TO: Sarah Copeland Hanzas, Secretary of State

FROM: Jenney Samuelson, Secretary, Agency of Human Services

A handwritten signature in blue ink, appearing to be "Jenney Samuelson", written over the "FROM:" line.

DATE: January 31, 2023

SUBJECT: Signatory Authority for Purposes of Authorizing Administrative Rules

I hereby designate Deputy Secretary of Human Services Todd W. Daloz as signatory to fulfill the duties of the Secretary of the Agency of Human Services as the adopting authority for administrative rules as required by Vermont's Administrative Procedure Act, 3. V.S.A § 801 et seq.

Cc: Todd W. Daloz

1. TITLE OF RULE FILING:

VPharm Coverage

2. PROPOSED NUMBER ASSIGNED BY THE SECRETARY OF STATE

24P003

3. ADOPTING AGENCY:

Agency of Human Services (AHS)

4. PRIMARY CONTACT PERSON:

(A PERSON WHO IS ABLE TO ANSWER QUESTIONS ABOUT THE CONTENT OF THE RULE).

Name: Ashley Berliner

Agency: Department of Vermont Health Access

Mailing Address: 280 State Drive, Waterbury, VT 05671-1000

Telephone: 802-578-9305 Fax: 802-241-0450

E-Mail: ahs.medicaidpolicy@vermont.gov

Web URL *(WHERE THE RULE WILL BE POSTED)*:

<https://humanservices.vermont.gov/rules-policies/health-care-rules>

5. SECONDARY CONTACT PERSON:

(A SPECIFIC PERSON FROM WHOM COPIES OF FILINGS MAY BE REQUESTED OR WHO MAY ANSWER QUESTIONS ABOUT FORMS SUBMITTED FOR FILING IF DIFFERENT FROM THE PRIMARY CONTACT PERSON).

Name: Danielle Fuoco

Agency: Department of Vermont Health Access

Mailing Address: 280 State Drive, Waterbury, VT 05671-1000

Telephone: 802-585-4265 Fax: 802-241-0450

E-Mail: danielle.fuoco@vermont.gov

6. RECORDS EXEMPTION INCLUDED WITHIN RULE:

(DOES THE RULE CONTAIN ANY PROVISION DESIGNATING INFORMATION AS CONFIDENTIAL; LIMITING ITS PUBLIC RELEASE; OR OTHERWISE, EXEMPTING IT FROM INSPECTION AND COPYING?) No

IF YES, CITE THE STATUTORY AUTHORITY FOR THE EXEMPTION:

n/a

PLEASE SUMMARIZE THE REASON FOR THE EXEMPTION:

n/a

7. LEGAL AUTHORITY / ENABLING LEGISLATION:

(THE SPECIFIC STATUTORY OR LEGAL CITATION FROM SESSION LAW INDICATING WHO THE ADOPTING ENTITY IS AND THUS WHO THE SIGNATORY SHOULD BE. THIS SHOULD BE A SPECIFIC CITATION NOT A CHAPTER CITATION).

3 V.S.A. § 801(b)(11); 33 V.S.A. § 2081(a)

8. EXPLANATION OF HOW THE RULE IS WITHIN THE AUTHORITY OF THE AGENCY:

This rule amends an existing rule on VPharm Coverage in the State of Vermont's health benefit programs. AHS's authority to adopt rules as identified above includes, by necessity, the authority to amend the rules to ensure continued alignment with federal and state guidance and law. The statutes authorize AHS as the adopting authority for administrative procedures and afford rulemaking authority for the administration of Vermont's medical assistance programs, including Vermont Pharmaceutical Assistance Programs such as VPharm.

9. THE FILING HAS NOT CHANGED SINCE THE FILING OF THE PROPOSED RULE.

10. THE AGENCY HAS NOT INCLUDED WITH THIS FILING A LETTER EXPLAINING IN DETAIL WHAT CHANGES WERE MADE, CITING CHAPTER AND SECTION WHERE APPLICABLE.

11. SUBSTANTIAL ARGUMENTS AND CONSIDERATIONS WERE NOT RAISED FOR OR AGAINST THE ORIGINAL PROPOSAL.

12. THE AGENCY HAS INCLUDED COPIES OF ALL WRITTEN SUBMISSIONS AND SYNOPSES OF ORAL COMMENTS RECEIVED.

13. THE AGENCY HAS INCLUDED A LETTER EXPLAINING IN DETAIL THE REASONS FOR THE AGENCY'S DECISION TO REJECT OR ADOPT THEM.

14. CONCISE SUMMARY (150 WORDS OR LESS):

This proposed rulemaking amends VPharm rule 5450 titled "Coverage" which establishes coverage for the VPharm program. This VPharm Coverage rule was last amended effective February 25, 2012. This amendment aligns with federal and state guidance and law, improves clarity, and makes technical corrections. Certain content, such as 5450.1 Rebate or Price Discount, has been removed as it was redundant with language that exists in state statute. Substantive revisions include: expanding drug coverage available under VPharm 2 and VPharm 3 to be equivalent to the drug coverage available under VPharm 1 and the Medicaid program, as authorized through

Vermont's Global Commitment to Health 1115
Demonstration waiver effective July 1, 2022.

15. EXPLANATION OF WHY THE RULE IS NECESSARY:

The rule is necessary to define coverage for the VPharm program. This amendment aligns with the federal and state guidance and law, improves clarity, and makes technical corrections.

16. EXPLANATION OF HOW THE RULE IS NOT ARBITRARY:

This rule is required to implement state and federal health care guidance and laws. Additionally, the rule is within the authority of the Secretary, is within the expertise of AHS, and is based on relevant factors including consideration of how the rule affects the people and entities listed below.

17. LIST OF PEOPLE, ENTERPRISES AND GOVERNMENT ENTITIES AFFECTED BY THIS RULE:

VPharm beneficiaries; Agency of Human Services including its Departments; hospitals; health law, policy, and related advocacy and community-based organizations and groups including Vermont Legal Aid; health care providers; and pharmacies.

18. BRIEF SUMMARY OF ECONOMIC IMPACT (150 WORDS OR LESS):

The expansion of drug coverage available under VPharm 2 and VPharm 3 has been implemented and was effective July 1, 2022 under the authority of the Global Commitment to Health 1115 waiver. Public notice was conducted through the Global Commitment Register (see GCR 22-046) on June 29, 2022. The estimated gross annualized budget impact was \$24,397. In expanding drug coverage under VPharm 2 and VPharm 3 to be equivalent to the drug coverage available under VPharm 1 and the Medicaid program, VPharm members will experience lower out-of-pocket costs as they will be able to receive \$1/\$2 copays for more drugs through VPharm. There is no impact to members with VPharm 1.

Other rule revisions do not increase or lessen an economic burden on any person or entity including no impact on the State's gross annualized budget in Fiscal Year 2024. The changes and amendments conform the rule with current practice and changes to Vermont's Global Commitment to Health 1115 waiver that have already been implemented.

19. A HEARING WAS HELD.

20. HEARING INFORMATION

(THE FIRST HEARING SHALL BE NO SOONER THAN 30 DAYS FOLLOWING THE POSTING OF NOTICES ONLINE).

IF THIS FORM IS INSUFFICIENT TO LIST THE INFORMATION FOR EACH HEARING, PLEASE ATTACH A SEPARATE SHEET TO COMPLETE THE HEARING INFORMATION.

Date: 3/6/2024

Time: 03:00 PM

Street Address: Virtual Hearing only - Phone or Microsoft Teams call in 802-552-8456, Phone Conference ID: 131313904#; Teams link and information will be posted in the Global Commitment Register online as well.

Zip Code:

URL for Virtual: https://teams.microsoft.com/l/meetup-join/19%3ameeting_YWJkYTQ3ZjctOWIwZC00ZmExLWI5MWEtMzliNDIzYjNmM2Q1%40thread.v2/0?context=%7b%22Tid%22%3a%2220b4933b-baad-433c-9c02-70edcc7559c6%22%2c%22Oid%22%3a%22beb0dd2a-7ce6-4285-9bad-e79977845027%22%7d

Date:

Time: AM

Street Address:

Zip Code:

URL for Virtual:

Date:

Time: AM

Street Address:

Zip Code:

URL for Virtual:

Date:

Time: AM

Street Address:

Zip Code:

URL for Virtual:

21. DEADLINE FOR COMMENT (NO EARLIER THAN 7 DAYS FOLLOWING LAST HEARING):

3/13/2024

KEYWORDS (PLEASE PROVIDE AT LEAST 3 KEYWORDS OR PHRASES TO AID IN THE SEARCHABILITY OF THE RULE NOTICE ONLINE).

VPharm

Coverage

Drug Coverage

Pharmacy

Medicare



State of Vermont
Agency of Human Services
280 State Drive
Waterbury, VT 05671-1000
www.humanservices.vermont.gov

Jenney Samuelson, Secretary
[phone] 802-241-0440
[fax] 802-241-0450

MEMORANDUM

To: Sarah Copeland Hanzas, Secretary of State, Vermont Secretary of State Office
Rep. Trevor Squirrel, Chair, Legislative Committee on Administrative Rules (LCAR)

From: Ashley Berliner, Director of Health Care Policy & Planning, Agency of Human Services

Cc: Todd Daloz, Deputy Secretary, Agency of Human Services
Charlene Dindo, Committee Assistant, Legislative Committee on Administrative Rules
Louise Corliss, APA Coordinator, Secretary of State's Office

Date: April 5, 2024

Re: Agency of Human Services Final Proposed Rule Filing

Enclosed is the final proposed rule filing for the following Agency of Human Services rule:

Amended:

- 24P003 – 5450 VPharm Coverage

A public hearing for the proposed rule was held on March 6, 2024, and the public comment period ended March 13, 2024. One comment was received during the public comment period. The comment received and the Agency's response to the comment are enclosed in the rule package. No changes were made to the rule since the filing of the proposed rule.

If you have any questions, please contact Dani Fuoco, Policy Analyst, at 802-585-4265.

Adopting Page

Instructions:

This form must accompany each filing made during the rulemaking process:

Note: To satisfy the requirement for an annotated text, an agency must submit the entire rule in annotated form with proposed and final proposed filings. Filing an annotated paragraph or page of a larger rule is not sufficient. Annotation must clearly show the changes to the rule.

When possible, the agency shall file the annotated text, using the appropriate page or pages from the Code of Vermont Rules as a basis for the annotated version. New rules need not be accompanied by an annotated text.

1. TITLE OF RULE FILING:

VPharm Coverage

2. ADOPTING AGENCY:

Agency of Human Services (AHS)

3. TYPE OF FILING (*PLEASE CHOOSE THE TYPE OF FILING FROM THE DROPDOWN MENU BASED ON THE DEFINITIONS PROVIDED BELOW*):

- **AMENDMENT** - Any change to an already existing rule, even if it is a complete rewrite of the rule, it is considered an amendment if the rule is replaced with other text.
- **NEW RULE** - A rule that did not previously exist even under a different name.
- **REPEAL** - The removal of a rule in its entirety, without replacing it with other text.

This filing is **AN AMENDMENT OF AN EXISTING RULE** .

4. LAST ADOPTED (*PLEASE PROVIDE THE SOS LOG#, TITLE AND EFFECTIVE DATE OF THE LAST ADOPTION FOR THE EXISTING RULE*):

Rule Log #12-005; 5450 Coverage; adopted 2/25/2012.



INTERAGENCY COMMITTEE ON ADMINISTRATIVE RULES (ICAR) MINUTES

Meeting Date/Location: January 8, 2024, virtually via Microsoft Teams
Members Present: Chair Sean Brown, Jared Adler, Jennifer Mojo, Diane Sherman, Michael Obuchowski, and Nicole Dubuque
Members Absent: John Kessler
Minutes By: Melissa Mazza-Paquette

- 2:00 p.m. meeting called to order, welcome and introductions.
- Review and approval of [minutes](#) from the November 13, 2023 meeting.
- No additions/deletions to agenda. Agenda approved as drafted.
- No public comments made.
- Presentation of Proposed Rules on pages 2-12 to follow.
 1. Administration of Nonemergency Involuntary Psychiatric Medications, Department of Mental Health, page 2
 2. Vital Records Rule, Department of Health, page 3
 3. VPharm Coverage, Department of Vermont Health Access, page 4
 4. Rules Governing the Importation of Domestic Animals, Including Livestock and Poultry, Vermont Agency of Agriculture, Food & Markets, page 5
 5. Antidegradation Implementation Rule, Agency of Natural Resources, page 6
 6. Reach Up Eligibility Rules, Department for Children and Families, page 7
 7. Reach Up Services Rules, Department for Children and Families, page 8
 8. Reach First Rules, Department for Children and Families, page 9
 9. Postsecondary Education Program Rules, Department for Children and Families, page 10
 10. Private Nonmedical Institution Rules Simplification, Department of Vermont Health Access, page 11
 11. Nursing Home Reimbursement Rule Simplification, Department of Vermont Health Access, page 12
- Next scheduled meeting is Monday, February 23, 2024 at 1:00 p.m.
- 3:38 p.m. meeting adjourned.

Proposed Rule: VPharm Coverage, Department of Vermont Health Access

Presented By: Danielle Fuoco

Motion made to accept the rule by Nicole Dubuque, seconded by Mike Obuchowski, and passed unanimously with the following recommendations:

1. Proposed Filing – Coversheet:
 - a. #8: Define 'VPharm' at the end of the 1st sentence.
 - b. #12 and #3 of the Economic Impact Statement: Use consistent language in both responses.
 - c. #14: Update dates per APA process.

Economic Impact Analysis

Instructions:

In completing the economic impact analysis, an agency analyzes and evaluates the anticipated costs and benefits to be expected from adoption of the rule; estimates the costs and benefits for each category of people enterprises and government entities affected by the rule; compares alternatives to adopting the rule; and explains their analysis concluding that rulemaking is the most appropriate method of achieving the regulatory purpose. If no impacts are anticipated, please specify “No impact anticipated” in the field.

Rules affecting or regulating schools or school districts must include cost implications to local school districts and taxpayers in the impact statement, a clear statement of associated costs, and consideration of alternatives to the rule to reduce or ameliorate costs to local school districts while still achieving the objectives of the rule (see 3 V.S.A. § 832b for details).

Rules affecting small businesses (excluding impacts incidental to the purchase and payment of goods and services by the State or an agency thereof), must include ways that a business can reduce the cost or burden of compliance or an explanation of why the agency determines that such evaluation isn't appropriate, and an evaluation of creative, innovative or flexible methods of compliance that would not significantly impair the effectiveness of the rule or increase the risk to the health, safety, or welfare of the public or those affected by the rule.

1. TITLE OF RULE FILING:

VPharm Coverage

2. ADOPTING AGENCY:

Agency of Human Services (AHS)

3. CATEGORY OF AFFECTED PARTIES:

LIST CATEGORIES OF PEOPLE, ENTERPRISES, AND GOVERNMENTAL ENTITIES POTENTIALLY AFFECTED BY THE ADOPTION OF THIS RULE AND THE ESTIMATED COSTS AND BENEFITS ANTICIPATED:

Categories of people, enterprises, and governmental entities that may be affected by this rule:

VPharm applicants/enrollees;

Health care providers;

Pharmacies;

Health law, policy, and related advocacy and community-based organizations and groups including the Office of the Health Care Advocate; and

Agency of Human Services including its departments.

Anticipated costs and benefits of this rule:

The expansion of drug coverage available under VPharm 2 and VPharm 3 has been implemented and was effective July 1, 2022 under the authority of the Global Commitment to Health 1115 waiver. Public notice was conducted through the Global Commitment Register (see GCR 22-046) on June 29, 2022. The estimated gross annualized budget impact was \$24,397. In expanding drug coverage under VPharm 2 and VPharm 3 to be equivalent to the drug coverage available under VPharm 1 and the Medicaid program, VPharm members will experience lower out-of-pocket costs as they will be able to receive \$1/\$2 copays for more drugs through VPharm. There is no impact to members with VPharm 1.

Other rule revisions do not increase or lessen an economic burden on any person or entity including no impact on the State's gross annualized budget in Fiscal Year 2024. The changes and amendments conform the rule with current practice and changes to Vermont's Global Commitment to Health 1115 waiver that have already been implemented.

4. IMPACT ON SCHOOLS:

INDICATE ANY IMPACT THAT THE RULE WILL HAVE ON PUBLIC EDUCATION, PUBLIC SCHOOLS, LOCAL SCHOOL DISTRICTS AND/OR TAXPAYERS CLEARLY STATING ANY ASSOCIATED COSTS:

No impact.

5. ALTERNATIVES: *CONSIDERATION OF ALTERNATIVES TO THE RULE TO REDUCE OR AMELIORATE COSTS TO LOCAL SCHOOL DISTRICTS WHILE STILL ACHIEVING THE OBJECTIVE OF THE RULE.*

Not applicable.

6. IMPACT ON SMALL BUSINESSES:

INDICATE ANY IMPACT THAT THE RULE WILL HAVE ON SMALL BUSINESSES (EXCLUDING IMPACTS INCIDENTAL TO THE PURCHASE AND PAYMENT OF GOODS AND SERVICES BY THE STATE OR AN AGENCY THEREOF):

No impact.

7. **SMALL BUSINESS COMPLIANCE:** *EXPLAIN WAYS A BUSINESS CAN REDUCE THE COST/BURDEN OF COMPLIANCE OR AN EXPLANATION OF WHY THE AGENCY DETERMINES THAT SUCH EVALUATION ISN'T APPROPRIATE.*

No impact.

8. **COMPARISON:**
COMPARE THE IMPACT OF THE RULE WITH THE ECONOMIC IMPACT OF OTHER ALTERNATIVES TO THE RULE, INCLUDING NO RULE ON THE SUBJECT OR A RULE HAVING SEPARATE REQUIREMENTS FOR SMALL BUSINESS:

Not applicable.

9. **SUFFICIENCY:** *DESCRIBE HOW THE ANALYSIS WAS CONDUCTED, IDENTIFYING RELEVANT INTERNAL AND/OR EXTERNAL SOURCES OF INFORMATION USED.*

AHS has analyzed and evaluated the anticipated impacts to be expected from the adoption of this rule including considering the impacts for each category of persons and entities described above. There are no alternatives to the adoption of the rule; it is necessary to ensure continued alignment with federal and state guidance and law for covered services and benefits within Vermont's VPharm program.

Environmental Impact Analysis

Instructions:

In completing the environmental impact analysis, an agency analyzes and evaluates the anticipated environmental impacts (positive or negative) to be expected from adoption of the rule; compares alternatives to adopting the rule; explains the sufficiency of the environmental impact analysis. If no impacts are anticipated, please specify “No impact anticipated” in the field.

Examples of Environmental Impacts include but are not limited to:

- Impacts on the emission of greenhouse gases
- Impacts on the discharge of pollutants to water
- Impacts on the arability of land
- Impacts on the climate
- Impacts on the flow of water
- Impacts on recreation
- Or other environmental impacts

1. TITLE OF RULE FILING:

VPharm Coverage

2. ADOPTING AGENCY:

Agency of Human Services (AHS)

3. GREENHOUSE GAS: *EXPLAIN HOW THE RULE IMPACTS THE EMISSION OF GREENHOUSE GASES (E.G. TRANSPORTATION OF PEOPLE OR GOODS; BUILDING INFRASTRUCTURE; LAND USE AND DEVELOPMENT, WASTE GENERATION, ETC.):*

No impact.

4. WATER: *EXPLAIN HOW THE RULE IMPACTS WATER (E.G. DISCHARGE / ELIMINATION OF POLLUTION INTO VERMONT WATERS, THE FLOW OF WATER IN THE STATE, WATER QUALITY ETC.):*

No impact.

5. LAND: *EXPLAIN HOW THE RULE IMPACTS LAND (E.G. IMPACTS ON FORESTRY, AGRICULTURE ETC.):*

No impact.

6. RECREATION: *EXPLAIN HOW THE RULE IMPACTS RECREATION IN THE STATE:*

No impact.

7. **CLIMATE:** *EXPLAIN HOW THE RULE IMPACTS THE CLIMATE IN THE STATE:*
No impact.
8. **OTHER:** *EXPLAIN HOW THE RULE IMPACT OTHER ASPECTS OF VERMONT'S ENVIRONMENT:*
No impact.
9. **SUFFICIENCY:** *DESCRIBE HOW THE ANALYSIS WAS CONDUCTED, IDENTIFYING RELEVANT INTERNAL AND/OR EXTERNAL SOURCES OF INFORMATION USED.*
No impact.

Public Input Maximization Plan

Instructions:

Agencies are encouraged to hold hearings as part of their strategy to maximize the involvement of the public in the development of rules. Please complete the form below by describing the agency's strategy for maximizing public input (what it did do, or will do to maximize the involvement of the public).

This form must accompany each filing made during the rulemaking process:

1. TITLE OF RULE FILING:

VPharm Coverage

2. ADOPTING AGENCY:

Agency of Human Services (AHS)

3. PLEASE DESCRIBE THE AGENCY'S STRATEGY TO MAXIMIZE PUBLIC INVOLVEMENT IN THE DEVELOPMENT OF THE PROPOSED RULE, LISTING THE STEPS THAT HAVE BEEN OR WILL BE TAKEN TO COMPLY WITH THAT STRATEGY:

AHS consulted with key stakeholders on the development of policies in this rulemaking. AHS shared the proposed rule with Vermont Legal Aid, Vermont Medical Society, Vermont Association of Hospitals and Health Systems, Vermont Care Partners, Bi-State Primary Care Association, and the Visiting Nurses Associations of Vermont on 10/18/2023. No comments were received.

AHS also shared the proposed rule with the Medicaid and Exchange Advisory Committee on 10/18/2023. No comments were received.

The proposed rule was posted on the AHS website for public comment, and a public hearing was held on March 6, 2024. The public comment period ended March 13, 2024. One comment was received in support of the rule amendments, and made a request for additional drug coverage outside the scope of this rulemaking.

When the final proposed rule is filed with the Office of the Secretary of State and the Legislative Committee

Public Input

on Administrative Rulemaking, AHS will provide notice and access to the rule, through the Global Commitment Register, to stakeholders and all persons who subscribe to the Global Commitment Register.

The Global Commitment Register is a database that provides notification of policy changes and clarifications of existing Medicaid policy, including rulemaking, under Vermont's 1115 Global Commitment to Health waiver. Anyone can subscribe to the Global Commitment Register. Proposed, final proposed, and adopted rules, including all public comments and responses to rulemaking, are posted to the Global Commitment Register. Subscribers will receive email notification of the filing including hyperlinks to the documents posted on the Global Commitment Register and an explanation of how to be further involved in the rulemaking.

4. BEYOND GENERAL ADVERTISEMENTS, PLEASE LIST THE PEOPLE AND ORGANIZATIONS THAT HAVE BEEN OR WILL BE INVOLVED IN THE DEVELOPMENT OF THE PROPOSED RULE:

Agency of Human Services, and the Department of Vermont Health Access;

Vermont Legal Aid;

Vermont Medical Society;

Vermont Association of Hospitals and Health Systems;

Vermont Care Partners;

Bi-State Primary Care Association;

Visiting Nurses Associations of Vermont; and

Medicaid and Exchange Advisory Committee.



State of Vermont
Agency of Human Services
280 State Drive
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Jenney Samuelson, Secretary
Todd Daloz, Deputy Secretary

[phone] 802-241-0440
[fax] 802-241-0450

Date: March 19, 2024

Re: Response to Public Comment on GCR 23-144: [VPharm Coverage Rule Update](#)

One comment was received and is included below along with a response from the Agency of Human Services (AHS). No other comments were received on this proposed rule filing.

Public Comment:

I am submitting my comment in favor of the proposed amendment to VPharm Rules 5450 to reflect the expansion of drug coverage under VPharm 2 and 3 that went into effect July 1, 2022. As you are likely aware, four (04) in ten (10) Medicare-Medicaid enrollees live on annual income of less than \$10,000 ([A Profile of Medicare-Medicaid Enrollees \(Dual Eligibles\)](#)). Providing additional assistance to cover the cost of a broader scope of needed prescriptions is obviously a significant benefit to these individuals. I applaud The Agency of Human Services (AHS) for not only expanding the list of pharmaceuticals that qualify for this supplemental coverage but also making this benefit available to those who have applied for Medicare prescription drug benefits but who have not yet received the coverage due to operational problems with Medicare. Administrative roadblocks and errors can create unnecessary delays to access of needed care, not to mention significant frustration and stress for those experiencing them. This rule change provides a solution for this vulnerable population so they can still receive their needed medications and supplies in a timely manner.

In addition to this expansion of supplemental coverage for existing medications covered under the Vermont Medicaid program, I encourage AHS to consider including anti-obesity and weight-loss medications in the list of drugs covered. While this may increase the expenditure of Medicaid dollars spent on pharmacy benefits it could support the reduction of costs in other areas of the program. People who are overweight or obese are at a higher risk of other serious medical problems, such as diabetes, heart disease, high cholesterol and blood pressure, and mental illnesses ([Health Effects of Overweight and Obesity](#)). With Medicare beneficiaries you are dealing with an older population who may have a difficult time incorporating sufficient amounts of physical activity or other lifestyle changes needed to reduce their weight. Covering these weight loss medications can support getting these individuals to a healthy weight and at the same time reducing other medical issues and the high costs of the drugs needed to manage them.

Thank you for your time,

Interested Public Party

State Response:

The Agency of Human Services (AHS) appreciates the support of the proposed amendments to the VPharm Coverage rule (5450). AHS also acknowledges the request by the commenter for coverage of weight loss medications to address obesity. Vermont Medicaid (and subsequently VPharm) currently excludes drugs prescribed for weight loss in its Medicaid State Plan. While this request is outside of the scope of this rulemaking effort, the agency will take this comment into consideration.

Coverage

Annotated
Text5450 Coverage (XX/XX/2024, GCR 23-14402/25/2012, 11-13)

~~(a) Beneficiaries who are entitled to Medicare benefits under Part A or enrolled in Medicare Part B, and who live in the service area of a Part D plan, are defined under Medicare rules at 42 CFR §423.30 as eligible for Part D. Vermont is included in the service area for several Part D plans. According to 42 CFR §423.906, Medicare is the primary payer for covered drugs for Part D eligible individuals. VPharm does not cover drugs in classes included in the Part D benefit. VPharm provides the following secondary supplemental pharmacy coverage as described below for those eligible for Medicare and VPharm.:~~

(1) VPharm covers beneficiary Medicare prescription drug plan cost-sharing after any federal low-income subsidy (LIS) is applied. This may include:

- (A) Deductible,
- (B) Co-payments,
- (C) Coinsurance,
- (D) The coverage gap, and
- (E) Catastrophic copayments according to Medicare prescription drug plan rules.

(2) VPharm covers the Medicare prescription drug plan premium up to the low-income premium subsidy (LIS) amount (as determined by the Centers for Medicare and Medicaid Services).

~~Part D is administered either through a prescription drug plan (PDP) or as a component of Part C, Medicare managed care, in a Medicare Advantage Prescription Drug benefit (MA-PD).~~

(b) VPharm will also provides supplemental coverage for certain categories of drugs if they are not covered by the the PDP/MA-PD Medicare prescription drug plan. These categories of drugs are covered as they are covered under Medicaid and can be found in the Medicaid State Plan on the Agency of Human Services website.

(1) Coverage of these drugs is Coverage is subject to the requirements of the preferred drug list (PDL), which is available on the Department of Vermont Health Access website.:

(2) Coverage for the pharmaceuticals described above shall be based upon current Medicaid payment and dispensing policies.

~~A. drugs for anorexia, weight loss, or weight gain (rule 7502.3);~~

~~B. vitamins or minerals if the conditions described in rule 7502.4 are met;~~

~~C. over the counter prescriptions if the conditions described in rule 7502.5 are met;~~

~~D. barbiturates; and~~

~~E. benzodiazepines~~

(c) For those beneficiaries whose household income is not greater than 150 percent of the federal poverty level (FPL), the drugs in the above categories are covered as they are covered under Medicaid. The following additional In addition, benefits are available for VPharm 1 beneficiaries only:

(1) provided for One comprehensive visual analysis (including a refraction) and one interim eye exam (including a refraction) within a two-year period, and

(2) Diagnostic visits and tests related to vision.

~~For those beneficiaries whose household income is greater than 150 percent FPL and no greater than 225 percent FPL, VPharm covers the drugs in the above categories only if they are maintenance drugs. "Maintenance drug" means a drug approved by the FDA for continuous use and prescribed to treat a chronic condition for a prolonged period of time of 30 days or longer and includes insulin, an insulin syringe and an insulin needle. It may not be dispensed unless prescribed by a licensed physician.~~

~~(d) In addition, VPharm covers beneficiary cost sharing after any federal limited income subsidy (LIS) is applied. This may include basic beneficiary premiums for the PDP up to the low income premium subsidy amount (as determined by the Centers for Medicare and Medicaid Services), Part D deductible, co-payments, coinsurance, the Part D coverage gap, and catastrophic co-payments according to Medicare Part D rules. Beneficiaries have co-payments as described in statute at 33 V.S.A. § 2073(d), rule 3505.1.~~

~~(e) Beneficiaries may request coverage of a prescribed drug when an individual has exhausted the appeal process under the Medicare prescription drug benefit. For those beneficiaries whose household income is greater than 175 percent but no greater than 225 percent of the poverty level, cost sharing coverage is limited to maintenance drugs. On a case by case basis, DVHA may pay or subsidize a higher premium for a Medicare Part D prescription drug plan offering expanded benefits if it is cost effective to do so.~~

~~(f) For VPharm beneficiaries who are eligible for and have applied for the Medicare prescription drug benefit but have not yet received coverage due to an operational problem with Medicare, or who otherwise have not received coverage for a needed drug: Vermont Medicaid will cover the drug if medically necessary and if it finds that good cause and hardship exist. Coverage will continue until the operational problem and good cause and hardship ends. The individual must have made every reasonable effort with Medicare, given the individual's circumstances, to obtain coverage.~~

Coverage

~~In the case of the statin lipotropic and proton pump inhibitor drug classes, VPharm requires the use of select generic drugs in order to receive coverage of the Medicare Part D cost sharing, or of the prescription when the drug would be paid for entirely by VPharm, except that:~~

- ~~A. a beneficiary who is taking a brand name drug on June 30, 2009, under a prior authorization through a Medicare Part D plan, may continue to receive coverage under VPharm for that drug; and~~
- ~~B. a prescriber may override the substitution of a generic drug by requesting an exception override from DVHA. The override will be based on the same criteria provided for under section 4606 of Title 18 (generic substitutions). The prescriber must provide a detailed explanation regarding:~~
- ~~(1) the drug(s) that have been previously tried by the beneficiary and:~~

- ~~_____ were ineffective; or~~
- ~~_____ resulted in the adverse or harmful side effects to the beneficiary; or~~

(2) ~~the reasons why the provider expects that the generic drug(s) may be ineffective or result in adverse or harmful side effects to the beneficiary if they have not previously tried the drug(s).~~

~~The drug utilization review (DUR) board shall determine the list of generic drugs that shall be available for coverage in each class and shall ensure that the list of generic drugs includes drugs available on the formularies of 90 percent of the Medicare Part D prescription drug plans available in Vermont. In designing the list, the DUR board shall maximize access to a variety of generic drugs for beneficiaries.~~

~~When a beneficiary appeals a denial of coverage of a drug under a Part D or Part C plan, and has exhausted the plan's appeal process through the Independent Review Entity (IRE) decision level, or the plan's transition processes as approved by the Centers for Medicare and Medicaid Services (CMS), the beneficiary may apply to the Department of Vermont Health Access (DVHA) for coverage of the drug if it would have been included in the corresponding Vermont pharmacy benefit (Medicaid or maintenance-level of coverage) if the beneficiary were not covered by Part D. If the beneficiary's prescriber documents medical necessity in a manner established by the director of the DVHA, and the process for documentation conforms with the pharmacy best practice and cost control program established under subchapter 5 of chapter 19 of Title 33, the drug shall be covered.~~

~~At the beginning of coverage under Medicare Part D, when a beneficiary has applied for and has attempted to enroll in a Part D plan and has not yet received coverage due to an operational problem with Medicare, or has otherwise not received coverage for the needed pharmaceutical, the necessary drugs will be covered, if DVHA finds that good cause and a hardship exist, until such time as the operational problem, good cause and hardship ends. The beneficiary must have made every reasonable effort with CMS and the PDP, given the beneficiary's circumstances, to obtain coverage. The intent of the good cause and hardship exception is remedial in nature and shall be interpreted accordingly. In general "good cause" shall include instances where the lack of coverage can not reasonably be considered the fault of the beneficiary, and "hardship" shall include circumstances where alternative means for the coverage at issue are not reasonably available or will likely result in irreparable loss or serious harm to the beneficiary. DVHA will make determinations of whether or not operational problems, good cause, or hardship exists for purposes of coverage.~~

5450.1 Non-Drug Items (02/25/2012, 11-13XX/XX/2024, GCR 23-144)

- (a) VPharm covers beneficiary cost-sharing ~~(after a Medicare Part B or Part D payment)~~ for insulin and other diabetic supplies, including test strips, needles and syringes.

Coverage

5450.2 Rebate or Price Discount (02/25/2012, 11-13)

~~VPharm provides secondary pharmacy coverage as described in section 5450 for those eligible for Medicare and VPharm. Manufacturers shall pay to the DVHA a rebate on all pharmaceuticals paid by the State for VPharm beneficiaries in an amount at least as favorable as the rebate or price discount paid in connection with the Medicaid program.~~

Coverage

5450 Coverage (XX/XX/2024, GCR 23-144)

(a) VPharm provides the following supplemental pharmacy coverage:

(1) VPharm covers beneficiary Medicare prescription drug plan cost-sharing after any federal low-income subsidy (LIS) is applied. This may include:

- (A) Deductible,
- (B) Co-payments,
- (C) Coinsurance,
- (D) The coverage gap, and
- (E) Catastrophic copayments according to Medicare prescription drug plan rules.

(2) VPharm covers the Medicare prescription drug plan premium up to the low-income premium subsidy (LIS) amount (as determined by the Centers for Medicare and Medicaid Services).

(b) VPharm also provides coverage for certain categories of drugs if they are not covered by the Medicare prescription drug plan. These categories of drugs are covered as they are under Medicaid and can be found in the Medicaid State Plan on the Agency of Human Services website.

- (1) Coverage is subject to the requirements of the preferred drug list (PDL), which is available on the Department of Vermont Health Access website.
- (2) Coverage for the pharmaceuticals described above shall be based upon current Medicaid payment and dispensing policies.

(c) The following additional benefits are available for VPharm 1 beneficiaries only:

- (1) One comprehensive visual analysis (including a refraction) and one interim eye exam (including a refraction) within a two-year period, and
- (2) Diagnostic visits and tests related to vision.

(d) Beneficiaries have co-payments as described in statute at 33 V.S.A. § 2073(d).

(e) Beneficiaries may request coverage of a prescribed drug when an individual has exhausted the appeal process under the Medicare prescription drug benefit.

(f) For VPharm beneficiaries who are eligible for and have applied for the Medicare prescription drug benefit but have not yet received coverage due to an operational problem with Medicare, or who otherwise have not received coverage for a needed drug: Vermont Medicaid will cover the drug if medically necessary and if it finds that good cause and hardship exist. Coverage will continue until the operational problem and good cause and hardship ends. The individual must have made every reasonable effort with Medicare, given the individual's circumstances, to obtain coverage.

5450.1 Non-Drug Items (XX/XX/2024, GCR 23-144)

- (a) VPharm covers beneficiary cost-sharing for insulin and other diabetic supplies, including test strips, needles and syringes.

Final Proposed

The Vermont Statutes Online

The Vermont Statutes Online have been updated to include the actions of the 2023 session of the General Assembly.

NOTE: The Vermont Statutes Online is an unofficial copy of the Vermont Statutes Annotated that is provided as a convenience.

Title 3 : Executive

Chapter 025 : Administrative Procedure

Subchapter 001 : General Provisions

(Cite as: 3 V.S.A. § 801)

§ 801. Short title and definitions

(a) This chapter may be cited as the “Vermont Administrative Procedure Act.”

(b) As used in this chapter:

(1) “Agency” means a State board, commission, department, agency, or other entity or officer of State government, other than the Legislature, the courts, the Commander in Chief, and the Military Department, authorized by law to make rules or to determine contested cases.

(2) “Contested case” means a proceeding, including but not restricted to rate-making and licensing, in which the legal rights, duties, or privileges of a party are required by law to be determined by an agency after an opportunity for hearing.

(3) “License” includes the whole or part of any agency permit, certificate, approval, registration, charter, or similar form of permission required by law.

(4) “Licensing” includes the agency process respecting the grant, denial, renewal, revocation, suspension, annulment, withdrawal, or amendment of a license.

(5) “Party” means each person or agency named or admitted as a party, or properly seeking and entitled as of right to be admitted as a party.

(6) “Person” means any individual, partnership, corporation, association, governmental subdivision, or public or private organization of any character other than an agency.

(7) “Practice” means a substantive or procedural requirement of an agency, affecting one or more persons who are not employees of the agency, that is used by the

agency in the discharge of its powers and duties. The term includes all such requirements, regardless of whether they are stated in writing.

(8) “Procedure” means a practice that has been adopted in writing, either at the election of the agency or as the result of a request under subsection 831(b) of this title. The term includes any practice of any agency that has been adopted in writing, whether or not labeled as a procedure, except for each of the following:

(A) a rule adopted under sections 836-844 of this title;

(B) a written document issued in a contested case that imposes substantive or procedural requirements on the parties to the case;

(C) a statement that concerns only:

(i) the internal management of an agency and does not affect private rights or procedures available to the public;

(ii) the internal management of facilities that are secured for the safety of the public and the individuals residing within them; or

(iii) guidance regarding the safety or security of the staff of an agency or its designated service providers or of individuals being provided services by the agency or such a provider;

(D) an intergovernmental or interagency memorandum, directive, or communication that does not affect private rights or procedures available to the public;

(E) an opinion of the Attorney General; or

(F) a statement that establishes criteria or guidelines to be used by the staff of an agency in performing audits, investigations, or inspections, in settling commercial disputes or negotiating commercial arrangements, or in the defense, prosecution, or settlement of cases, if disclosure of the criteria or guidelines would compromise an investigation or the health and safety of an employee or member of the public, enable law violators to avoid detection, facilitate disregard of requirements imposed by law, or give a clearly improper advantage to persons that are in an adverse position to the State.

(9) “Rule” means each agency statement of general applicability that implements, interprets, or prescribes law or policy and that has been adopted in the manner provided by sections 836-844 of this title.

(10) “Incorporation by reference” means the use of language in the text of a regulation that expressly refers to a document other than the regulation itself.

(11) “Adopting authority” means, for agencies that are attached to the Agencies of Administration, of Commerce and Community Development, of Natural Resources, of Human Services, and of Transportation, or any of their components, the secretaries of those agencies; for agencies attached to other departments or any of their components,

the commissioners of those departments; and for other agencies, the chief officer of the agency. However, for the procedural rules of boards with quasi-judicial powers, for the Transportation Board, for the Vermont Veterans' Memorial Cemetery Advisory Board, and for the Fish and Wildlife Board, the chair or executive secretary of the board shall be the adopting authority. The Secretary of State shall be the adopting authority for the Office of Professional Regulation.

(12) "Small business" means a business employing no more than 20 full-time employees.

(13)(A) "Arbitrary," when applied to an agency rule or action, means that one or more of the following apply:

(i) There is no factual basis for the decision made by the agency.

(ii) The decision made by the agency is not rationally connected to the factual basis asserted for the decision.

(iii) The decision made by the agency would not make sense to a reasonable person.

(B) The General Assembly intends that this definition be applied in accordance with the Vermont Supreme Court's application of "arbitrary" in *Beyers v. Water Resources Board*, 2006 VT 65, and *In re Town of Sherburne*, 154 Vt. 596 (1990).

(14) "Guidance document" means a written record that has not been adopted in accordance with sections 836-844 of this title and that is issued by an agency to assist the public by providing an agency's current approach to or interpretation of law or describing how and when an agency will exercise discretionary functions. The term does not include the documents described in subdivisions (8)(A) through (F) of this section.

(15) "Index" means a searchable list of entries that contains subjects and titles with page numbers, hyperlinks, or other connections that link each entry to the text or document to which it refers. (Added 1967, No. 360 (Adj. Sess.), § 1, eff. July 1, 1969; amended 1981, No. 82, § 1; 1983, No. 158 (Adj. Sess.), eff. April 13, 1984; 1985, No. 56, § 1; 1985, No. 269 (Adj. Sess.), § 4; 1987, No. 76, § 18; 1989, No. 69, § 2, eff. May 27, 1989; 1989, No. 250 (Adj. Sess.), § 88; 2001, No. 149 (Adj. Sess.), § 46, eff. June 27, 2002; 2017, No. 113 (Adj. Sess.), § 3; 2017, No. 156 (Adj. Sess.), § 2.)

VERMONT **GENERAL ASSEMBLY**

The Vermont Statutes Online

The Vermont Statutes Online have been updated to include the actions of the 2023 session of the General Assembly.

NOTE: The Vermont Statutes Online is an unofficial copy of the Vermont Statutes Annotated that is provided as a convenience.

Title 33 : Human Services

Chapter 019 : Medical Assistance

Subchapter 008 : Vermont Pharmaceutical Assistance Programs

(Cite as: **33 V.S.A. § 2081**)

§ 2081. Rulemaking

The Agency of Human Services shall adopt rules necessary to implement and administer the provisions of this subchapter, including standards and schedules establishing coverage and exclusion of pharmaceuticals and maximum quantities of pharmaceuticals to be dispensed, and to comply with the requirements of the Medicare Modernization Act. (Added 2005, No. 71, § 314; amended 2009, No. 156 (Adj. Sess.), § 1.75; 2011, No. 171 (Adj. Sess.), § 41c; 2021, No. 130 (Adj. Sess.), § 3, eff. May 24, 2022.)



Proposed Rules Postings

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Deadline For Public Comment

Deadline: Mar 13, 2024

The deadline for public comment has expired. Contact the agency or primary contact person listed below for assistance.

Rule Details

Rule Number:	24P003
Title:	VPharm Coverage.
Type:	Standard
Status:	Proposed
Agency:	Agency of Human Services
Legal Authority:	3 V.S.A. § 801(b)(11); 33 V.S.A. § 2081(a)
Summary:	This proposed rulemaking amends VPharm rule 5450 titled "Coverage" which establishes coverage for the VPharm program. This VPharm Coverage rule was last amended effective February 25, 2012. This amendment aligns with federal and state guidance and law, improves clarity, and makes

technical corrections. Certain content, such as 5450.1 Rebate or Price Discount, has been removed as it was redundant with language that exists in state statute. Substantive revisions include: expanding drug coverage available under VPharm 2 and VPharm 3 to be equivalent to the drug coverage available under VPharm 1 and the Medicaid program, as authorized through Vermont's Global Commitment to Health 1115 Demonstration waiver effective July 1, 2022.

Persons Affected:

VPharm beneficiaries; Agency of Human Services including its Departments; hospitals; health law, policy, and related advocacy and community-based organizations and groups including Vermont Legal Aid; health care providers; and pharmacies.

Economic Impact:

The expansion of drug coverage available under VPharm 2 and VPharm 3 has been implemented and was effective July 1, 2022 under the authority of the Global Commitment to Health 1115 waiver. Public notice was conducted through the Global Commitment Register (see GCR 22-046) on June 29, 2022. The estimated gross annualized budget impact was \$24,397. In expanding drug coverage under VPharm 2 and VPharm 3 to be equivalent to the drug coverage available under VPharm 1 and the Medicaid program, VPharm members will experience lower out-of-pocket costs as they will be able to receive \$1/\$2 copays for more drugs through VPharm. There is no impact to members with VPharm 1. Other rule revisions do not increase or lessen an economic burden on any person or entity including no impact on the State's gross annualized budget in Fiscal Year 2024. The changes and amendments conform the rule with current practice and changes to Vermont's Global Commitment to Health 1115 waiver that have already been implemented.

Posting date:

Jan 24,2024

Hearing Information

Information for Hearing # 1

Hearing date: 03-06-2024 3:00 PM [ADD TO YOUR CALENDAR](#)

Location: Virtual Hearing only by Phone / MS. Teams

Address: Call in 802-552-8456, Phone Conference ID: 131313904#

City: https://teams.microsoft.com/l/meetupjoin/193ameeting_YWJkYTQ3ZjctOWIwZC00ZmExLWI5MWEtMzliNDIzYjNmM2Q140thread.v2/0?context7

State: VT

Zip: n/a

Hearing Notes: Virtual Hearing only - Phone or Microsoft Teams call in 802-552-8456, Phone Conference ID: 131313904#; Teams link and information will be posted in the Global Commitment Register online as well. https://teams.microsoft.com/l/meetupjoin/193ameeting_YWJkYTQ3ZjctOWIwZC00ZmExLWI5MWEtMzliNDIzYjNmM2Q140thread.v2/0?context7b22Tid223a2220b4933b-baad-433c-9c02-70edcc7559c6222c22Oid223a22beb0dd2a-7ce6-4285-9bad-e79977845027227d

Contact Information

Information for Primary Contact

PRIMARY CONTACT PERSON - A PERSON WHO IS ABLE TO ANSWER QUESTIONS ABOUT THE CONTENT OF THE RULE.

Level: Primary

Name: Ashley Berliner

Agency: Department of Vermont Health Access, Agency of Human Services

Address: 280 State Drive

City: Waterbury

State: VT

Zip: 05671-1000

Telephone: 802-578-9305

Fax: 802-241-0450

Email: ahs.medicaidpolicy@vermont.gov

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Website: <https://humanservices.vermont.gov/rules-policies/health-care-rules>

Address: [VIEW WEBSITE](#)

Information for Secondary Contact

SECONDARY CONTACT PERSON - A SPECIFIC PERSON FROM WHOM COPIES OF FILINGS MAY BE REQUESTED OR WHO MAY ANSWER QUESTIONS ABOUT FILINGS SUBMITTED FOR FILING IF DIFFERENT FROM THE PRIMARY CONTACT PERSON.

Level: Secondary

Name: Danielle Fuoco

Agency: Department of Vermont Health Access, Agency of Human Services

Address: 280 State Drive, Center Building

City: Waterbury

State: VT
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Keyword Information

Keywords:

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The Islander (islander@vermontislander.com)	Tel: 802-372-5600 FAX: 802-372-3025
Vermont Lawyer (hunter_press.vermont@gmail.com)	Attn: Will Hunter

FROM: APA Coordinator, VSARA

Date of Fax: January 25, 2024

RE: The "Proposed State Rules " ad copy to run on
PAGES INCLUDING THIS COVER MEMO:

4

February 1, 2024

***NOTE* 8-pt font in body. 12-pt font max. for headings - single space body. Please include dashed lines where they appear in ad copy. Otherwise minimize the use of white space. Exceptions require written approval.**

If you have questions, or if the printing schedule of your paper is disrupted by holiday etc. please contact VSARA at 802-828-3700, or E-Mail sos.statutoryfilings@vermont.gov, Thanks.

PROPOSED STATE RULES

By law, public notice of proposed rules must be given by publication in newspapers of record. The purpose of these notices is to give the public a chance to respond to the proposals. The public notices for administrative rules are now also available online at <https://secure.vermont.gov/SOS/rules/>. The law requires an agency to hold a public hearing on a proposed rule, if requested to do so in writing by 25 persons or an association having at least 25 members.

To make special arrangements for individuals with disabilities or special needs please call or write the contact person listed below as soon as possible.

To obtain further information concerning any scheduled hearing(s), obtain copies of proposed rule(s) or submit comments regarding proposed rule(s), please call or write the contact person listed below. You may also submit comments in writing to the Legislative Committee on Administrative Rules, State House, Montpelier, Vermont 05602 (802-828-2231).

VPharm Coverage.

Vermont Proposed Rule: 24P003

AGENCY: Agency of Human Services

CONCISE SUMMARY: This proposed rulemaking amends VPharm rule 5450 titled "Coverage" which establishes coverage for the VPharm program. This VPharm Coverage rule was last amended effective February 25, 2012. This amendment aligns with federal and state guidance and law, improves clarity, and makes technical corrections. Certain content, such as 5450.1 Rebate or Price Discount, has been removed as it was redundant with language that exists in state statute. Substantive revisions include: expanding drug coverage available under VPharm 2 and VPharm 3 to be equivalent to the drug coverage available under VPharm 1 and the Medicaid program, as authorized through Vermont's Global Commitment to Health 1115 Demonstration waiver effective July 1, 2022.

FOR FURTHER INFORMATION, CONTACT: Ashley Berliner, Department of Vermont Health Access, 280 State Drive, Waterbury, VT 05671-1000 Tel: 802-578-9305 Fax: 802-241-0450 E-Mail: ahs.medicaidpolicy@vermont.gov URL: <https://humanservices.vermont.gov/rules-policies/health-care-rules>.

FOR COPIES: Danielle Fuoco, Department of Vermont Health Access, 280 State Drive, Waterbury, VT 05671-1000 Tel: 802-585-4265 Fax: 802-241-0450 E-Mail: danielle.fuoco@vermont.gov.

Rules Governing the Importation of Domestic Animals, Including Livestock and Poultry.

Vermont Proposed Rule: 24P004

AGENCY: Agriculture, Food & Markets

CONCISE SUMMARY: This is an update to the existing importation rules for livestock and poultry. The rule outlines the documentation and disease testing requirements to import cattle/bison, equine, swine, sheep, goats, poultry, ratites, psittacine birds, camelids, and cervids from the US 50 States and Canada. Disease epidemiology and testing have changed, this update addresses the significant diseases of concerns and the tests required to reasonably demonstrate free status. This update aligns the rule with USDA disease programs, modern technology, and the disease traceability standards set by Vermont statutes. Examples of the changes: current USDA brucellosis program standards are eliminating the Class A-C language for describing state status

and has increased the age recommendation for swine testing from four months to six months of age.

FOR FURTHER INFORMATION, CONTACT: Kaitlynn Levine, Vermont Agency of Agriculture, Food & Markets, 116 State Street, Montpelier, VT 05620, Tel: 802-636-7144 Email: AGR.FSCPRule@vermont.gov URL: <https://agriculture.vermont.gov/rule-governing-importation-livestock-and-poultry-rule-98074>.

FOR COPIES: Kristin Haas, Vermont Agency of Agriculture, Food & Markets, 116 State Street, Montpelier, VT 05620, Tel: 802-522-7326 Email: AGR.FSCPRule@vermont.gov.

Private Nonmedical Institution Rules Simplification.

Vermont Proposed Rule: 24P005

AGENCY: Agency of Human Services

CONCISE SUMMARY: These rules strike all existing Division of Rate Setting rules and replace them in the Agency of Human Services' Health Care Administrative Rules. Some material, particularly language regarding which costs are allowable and how the Division applies various bonuses or penalties, is moved into a new manual. The remaining material primarily sets out the administrative process for applying for, receiving, and appealing per diem rates set by the Division.

FOR FURTHER INFORMATION, CONTACT: James LaRock, Department of Vermont Health Access, NOB 1 South, 280 State Drive, Waterbury, VT 05671 Tel: 802-241-0251 Fax: 802-241-0260 Email: james.larock@vermont.gov URL: <https://humanservices.vermont.gov/rules-policies/health-care-rules/health-care-administrative-rules-hcar>.

FOR COPIES: Jaime Mooney, Department of Vermont Health Access NOB 1 South, 280 State Drive, Waterbury, VT 05671 Tel: 802-798-2144 Fax: 802- 241-0260 Email: jaime.mooney@vermont.gov.

Nursing Home Reimbursement Rule Simplification.

Vermont Proposed Rule: 24P006

AGENCY: Agency of Human Services

CONCISE SUMMARY: These rules strike all existing Division of Rate Setting rules and replace them in the Agency of Human Services' Health Care Administrative Rules. Some material, particularly language regarding which costs are allowable and how the Division applies various bonuses or penalties, is moved into a new manual. The remaining material primarily sets out the administrative process for applying for, receiving, and appealing per diem rates set by the Division.

FOR FURTHER INFORMATION, CONTACT: James LaRock, Department of Vermont Health Access, NOB 1 South, 280 State Drive, Waterbury, VT 05671 Tel: 802-241-0251 Fax: 802-241-0260 Email: james.larock@vermont.gov URL: <https://humanservices.vermont.gov/rules-policies/health-care-rules/health-care-administrative-rules-hcar>.

FOR COPIES: Jaime Mooney, Department of Vermont Health Access NOB 1 South, 280 State Drive, Waterbury, VT 05671 Tel: 802-798-2144 Fax: 802-241-0260 Email: jaime.mooney@vermont.gov.

General Assistance Temporary Housing Assistance.

Vermont Proposed Rule: 24P007

AGENCY: Agency of Human Services, Department for Children and Families

CONCISE SUMMARY: The proposed rule contains four amendments to the General Assistance program rules: (1) language was added to rule 2650 authorizing DCF to withhold payments to hotels/motels in violation of

lodging licensing rules;(2) the rule expands categorical eligibility for 28 days of housing under rule 2652.3 to include families with children who are 19 years old or younger; (3) the rule updates the basic needs standard chart in rule 2652.4 to align with the current Reach Up basic needs dollar amounts; and (4) the methodology for calculating the 30% income contribution in rule 2652.4 was changed from using the least expensive daily motel rate to either the current daily rate at the motel in which the temporary housing applicant is staying or if the applicant is not currently housed in a motel, the average daily rate.

FOR FURTHER INFORMATION, CONTACT: Heidi Moreau, Agency of Human Services, Department for Children and Families 280 State Drive, NOB 1 North, Waterbury, VT 05671 Tel: 802-595-9639 Email: heidi.moreau@vermont.gov URL: <https://dcf.vermont.gov/esd/laws-rules/current>.

FOR COPIES: Amanda Beliveau, Agency of Human Services, Department for Children and Families 280 State Drive, HC 1 South, Waterbury, VT 05671 Tel: 802-241-0641 Email: amanda.beliveau@vermont.gov.
