
Emergency Rules

**Title 19—DEPARTMENT OF HEALTH
AND SENIOR SERVICES
Division 30—Division of Regulation and Licensure
Chapter 81—Certification**

EMERGENCY AMENDMENT

19 CSR 30-81.030 Evaluation and Assessment Measures for Title XIX Recipients and Applicants in Long-Term Care Facilities.
The department is amending subsections (5)(C) and (D).

PURPOSE: This amendment changes the point levels used in making determinations as to level of care.

EMERGENCY STATEMENT: The Department of Health and Senior Services, by regulation, must define the minimum level-of-care point count which qualifies individuals for intermediate and skilled nursing care and, derivatively, for home and community-based services. The Department of Health and Senior Services must implement House Bill 2010, 99th General Assembly, First Regular Session (2017), which appropriated funds for home and community-based services based on projected savings from an increase in the minimum level-of-care point count which qualifies individuals for intermediate and skilled nursing care and, derivatively, for home and community-based services. For the fiscal year that ends June 30, 2018, House Bill 2010 was predicated on projected budget savings of \$16,493,107 in general revenue and \$29,654,368 in associated federal funds, for a total budget savings of \$46,147,475. The department must take proactive action to create an efficient and sustainable home and community-based services program which serves those of greatest need with available funding. This emergency amendment provides for an increase in the minimum level-of-care point count which qualifies individuals for intermediate and skilled nursing care and, derivatively, for home and community-based services from twenty-one (21) points to twenty-four (24) points. Since the level-of-care assessment is in increments of three (3) points, this amounts to an increase of one (1) step in calculating level of care. In order to realize the full budget savings contemplated by House Bill 2010, the increase in the level-of-care point count must be effective at the beginning of the fiscal year, i.e., July 1, 2017, or as soon as possible thereafter. This adjustment to the minimum level-of-care point count is necessary to ensure that payments for home and community-based services are in line with the funds appropriated for that purpose. If the funds appropriated for the payment of home and community-based services at any time become insufficient to pay the full amount of the payment, no further payment will be made through the Medicaid claims processing system. By this emergency amendment, the department adopts a solution to this funding issue within the means that taxpayers, through the General Assembly, have given the department. At any given time, there are approximately sixty – six thousand (66,000) elderly and disabled adults receiving home and community-based services. There are a total of approximately eight thousand (8,000) such recipients who, at the time of their last assessment, were assessed at twenty-one (21) points. During State Fiscal Year 2016, some three hundred seventy-one (371) persons who were assessed at only the twenty-one- (21-) point count level entered intermediate and skilled nursing facilities at various times during the year. The continued availability of payment for home and community-based services to approximately fifty-eight thousand (58,000) senior Missourians who have been assessed at a level-of-care point count higher than twenty-one (21) points will ensure that quality home and community-based services will continue to be provided to these Medicaid recipients. This emergency amendment, that increases the minimum level-of-care point count from twenty-one (21) to twenty-four (24) points, will help to ensure that appropriated funds for home and community-based services will be available for those individuals with greater limitations on their

activities of daily living. This emergency amendment must be implemented in a timely fashion to ensure that quality home and community-based services continue to be provided to those individuals with greater limitations on their activities of daily living. As a result, the Department of Health and Senior Services finds an immediate danger to public health, safety, and/or welfare, and a compelling governmental interest, which require emergency action. The department has a compelling government interest in providing continued services for those individuals with greater limitations on their activities of daily living. The scope of this emergency amendment is limited to the circumstances creating the emergency and complies with the protections extended in the *Missouri and United States Constitutions*. The Department of Health and Senior Services believe this emergency amendment is fair to all interested persons and parties under the circumstances. This emergency amendment was filed July 5, 2017, becomes effective July 15, 2017, and expires February 22, 2018.

(5) Assessed Needs Point Designations Requirements.

(C) For individuals seeking admission to a long-term care facility on or after July [1, 2005] **15, 2017**, the applicant or recipient will be determined to be qualified for long-term care facility care if he or she is determined to need care with an assessed point level of [twenty-one (21)] **twenty-four (24)** points or above, using the assessment procedure as required in this rule.

(D) For individuals seeking admission to a long-term care facility on or after July [1, 2005] **15, 2017**, an applicant with [eighteen (18)] **twenty-one (21)** points or lower will be assessed as ineligible for Title XIX-funded long-term care in a long-term care facility, unless the applicant qualifies as otherwise provided in subsections[,] (5)(E) and/or (F) of the rule.

AUTHORITY: sections 192.006, [and 198.079, RSMo 2000 and 660.050,] **192.2000, and 198.079, RSMo [Supp. 2004] 2016**. This rule was previously filed as 13 CSR 40-81.084 and 13 CSR 15-9.030. Original rule filed Aug. 9, 1982, effective Nov. 11, 1982. For intervening history, please consult the *Code of State Regulations*. Emergency amendment filed July 5, 2017, effective July 15, 2017, expires Feb. 22, 2018. An emergency amendment and a proposed amendment covering this same material will be published in the August 15, 2017, issue of the *Missouri Register*.