



State of Vermont  
Agency of Human Services  
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Waterbury, VT 05671-1000

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# Global Commitment Register

January 29, 2024

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GCR 23-091  
FINAL PROPOSED

## **Health Care Administrative Rules Update – Filing 11**

### **Policy Summary:**

The Agency of Human Services (AHS) has filed HCAR 4.105, the final proposed rule for Medicaid Coverage of Exception Requests, with the Office of the Secretary of State (SOS) and the Legislative Committee on Administrative Rules (LCAR). HCAR 4.105, when adopted, will replace current Medicaid Covered Services rule 7104.

In response to public comments, these changes were made to HCAR 4.105:

- HCAR 4.105.2(B)(7) was revised to provide that if an alternative treatment is contraindicated for the Medicaid enrollee, that the enrollee is not required to undergo a trial of that treatment.
- HCAR 4.105.2(B)(4) was revised to remove the “no rational basis” language and to replace it with a requirement that a denial of the requested service would be arbitrary.

Additionally, the following changes were made to HCAR 4.105 since the proposed filing:

- HCAR 4.105.2(B)(4) was revised to remove the prohibition on denying coverage based on diagnosis, illness, or condition as the text was added in error and is inconsistent with federal Medicaid law at 42 CFR 438.210(a)(3).
- HCAR 4.105.2(B) was revised to restore the words “in combination” to the rule in order to improve clarity.

### **Effective Date:**

The final proposed rule was filed with the SOS and LCAR on January 22, 2024. The rule will not become effective until the administrative rulemaking process is complete.

### **Authority/Legal Basis:**

Adopting and rulemaking 3 V.S.A § 801(b)(11), 33 V.S.A. § 1901(a)(1).

**Population Affected:** All Medicaid beneficiaries

**Fiscal Impact:** No fiscal impact

### **Public Comment Period:**

The public comment period ended on August 16, 2023. [Public comments that were received](#), and [AHS’s responsiveness summary](#) can be found at these links.

**Additional Information:**

The [HCAR final proposed rule](#) is available on the AHS website at the link indicated.

The [final proposed rule on the SOS website](#) is referred to as:

- Rule 23P021 Medicaid Coverage of Exception Requests

The [HCAR adopted rules](#) that are currently in effect can be found at this link.

The [Medicaid Covered Services Rules](#) that are currently in effect can be found at this link.

More information about the [rulemaking process](#) is available on the Office of the Secretary of State's website.

To be added to the GCR email list, send an email to [AHS.MedicaidPolicy@vermont.gov](mailto:AHS.MedicaidPolicy@vermont.gov).