

**PROPOSED REGULATION OF THE
DEPARTMENT OF HEALTH AND HUMAN SERVICES**

LCB FILE NO. R104-23I

**The following document is the initial draft regulation proposed
by the agency submitted on 10/24/2023**

**PROPOSED REGULATION OF THE DEPARTMENT OF HEALTH AND HUMAN
SERVICES
RELATING TO THE ALL-PAYER CLAIMS DATABASE**

Sec. 1 *As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 439B.800 through 439B.875, inclusive, have the meanings ascribed to them in those sections.*

1. *“Covered person” has the meaning ascribed to it in NRS 439B.703.*
2. *“Data submitters” means the following entities as specified in NRS 439B.840(1): a health carrier, governing body of a local governmental agency that provides health insurance through a self-insurance reserve fund pursuant to NRS 287.010, or the Public Employees’ Benefits Program. It does not include those entities specified NRS 439B.840(1)(a) through (c) or NRS 439B.840(2).*
3. *In addition to the entities required to submit to the all-payer claims database pursuant to NRS 439B.840(1), Medicaid and the Children’s Health Insurance Program are required to submit to the database.*
4. *“Direct patient identifier” shall have the meaning ascribed to it by NRS 439B.815.*
5. *“Provider of health care” has the meaning ascribed to it by NRS 629.031*
6. *For purposes of NRS 439B.860, “cost of health care” means the final payment made to a Provider of health care by:*
 - (a) *a health carrier,*
 - (b) *a governing body of a local governmental agency that provides health insurance through a self-insurance reserve fund pursuant to NRS 287.010,*
 - (c) *an entity required by the regulations adopted pursuant to NRS 439B.840 and NRS 439B.875 to submit data to the database*
 - (d) *the Public Employees’ Benefits Program.*

Sec. 2 *All-payer claims database Advisory Committee; creation and function*

1. *An all-payer claims database Advisory Committee is hereby created within the Department of Health and Human Services*
2. *The function of the all-payer claims database Advisory Committee is to make recommendations to the Department concerning the:*
 - (a) *Collection, analysis, and reporting of data in the all-payer claims database;*
 - (b) *Secure access to data in the all-payer claims database; and*
 - (c) *Secure release of the data in the all-payer claims database pursuant to NRS 439B.800 to NRS 439B.875.*

Sec. 3 *Advisory Committee composition; terms and compensation of members*

1. *Members of the all-payer claims database Advisory Committee shall be appointed by the Director of the Department to serve for a term of 2 years. All members must be based in Nevada.*
2. *The Committee shall consist of the following members:*
 - (a) *One representative of a provider of health care;*
 - (b) *One representative of a health facility;*
 - (c) *One representative of a health authority, as authorized in NRS 439.005;*
 - (d) *One representative of a health maintenance organization;*
 - (e) *One representative of a private insurer;*
 - (f) *One representative of a nonprofit organization that represents consumers of health care services; and*

(g) Two data submitters identified as the first and second highest number of claims submitters to the database for terms of two years. For the initial Advisory Committee members, the two highest data submitters will be determined by the number of claims based on the data of the Division of Insurance, Department of Business and Industry.

3. Members of the all-payer database Advisory Committee shall serve without compensation, except that while engaged in the business of the committee, each member is entitled to receive the per diem allowance and travel expenses provided for state officers and employees generally, provided that funds are available for such purposes.

Sec. 4 Advisory Committee chair; meetings

1. The Director shall appoint a Chair of the all-payer claims database Advisory Committee from among its members to serve a term of one year.

2. The all-payer claims database Advisory Committee shall meet at least three times per calendar year, or at the call of the Director, or at the call of the Chair.

3. A majority of the voting members of the all-payer claims database Advisory Committee constitutes a quorum for the transaction of business, and the affirmative vote of a majority of the voting members of the committee is required to take action.

Sec. 5. Advisory Committee: duties and powers

1 The Advisory Committee shall:

(a) Submit an annual report to the Department concerning the quality, efficiency and cost of health care in the State;

(b) Make recommendations to the Department concerning the collection specifications as outline in the data submission guide, analysis and reporting of data in the database, secure access to such data, and release of such data; and

(c) Assist the Department in establishing and maintaining the all-payer claims database.

Sec. 6

1. Requirements for submission shall be set forth by the Department in the Data Submission Guide and all requirements shall be consistent with NRS 439B.800 to 439B.875 and the regulatory provisions herein.

2. Requirements included in the Data Submission Guide shall be adopted pursuant to NRS 422.2369 and shall be posted on an Internet website maintained by the Department.

3. Data submitters shall submit the required health care data in accordance with the schedule, formats, security, procedures related to replacement files, historical files, handling of duplicate records, and other requirements provided by the Department in the Data Submission Guide.

Sec. 7

1. "Historical data" means covered medical services claim files, pharmacy claim files, dental claim files, member eligibility, member enrollment data files, and provider data files with necessary identifiers in accordance with the Data Submission Guide.

2. The Department shall collect historical claims data in alignment with timeframes outlined in NRS 439B.800 to NRS 439B.875, up to a maximum of five (5) years of data and minimum of two (2) years, or through the end of the quarter immediately prior to the first regular quarterly

submission due in accordance with the data submission schedule as outlined in the Data Submission Guide.

3. The Department will provide written notification to the data submitters when it is ready to accept the submission of historical data in accordance with the Data Submission Guide.

4. Data submitters shall submit the historical data within the deadline set by the Data Submission Guide.

5. Requests for an extension of time to submit historical data shall be made in accordance with the Data Submission Guide.

Sec. 8

1. Data files and claim files shall be submitted to the Department in accordance with the requirements set forth in this chapter, state law as applicable, and the Data Submission Guide.

2. The Department shall have final approval authority over the Data Submission Guide as created and all subsequent changes.

Sec. 9

1. Each data submitter must submit data as set forth in Section 1 above in accordance with, and on the timelines set forth by the Data Submission Guide.

Sec. 10

1. If a person or entity violates any provision of NRS 439B.800 to 439B.875, the Department may assess administrative penalties consistent with NRS 439B.875.

1. Upon the initial decision to assess a penalty the Department shall notify the data submitter of its decision in writing, including the provisions of law, regulation, or the Data Submission Guide section of which the submitter is in violation, and indicating the right to request an administrative hearing within 90 days of the date of the written notice.

2. If a request for an administrative hearing is received via certified mail within 90 days, the Department shall then notify the submitter of the time, place, and nature of the hearing.

3. The Department shall review the case regarding all matters concerning the disputed penalty under a standard of review which affords deference to the Department's determination.

4. The outcome of the administrative hearing shall be deemed as the exhaustion of administrative remedies regarding the same and must be a decision by a hearing officer provided in writing and detailing the findings and support for the same.

5. If a data submitter violates NRS 439B.800 to 439B.875 by failing to make timely submission of information required by NRS 439B.840, the Department may impose an administrative penalty against the data submitter pursuant to NRS 439B.875 as follows:

a. Upon the first violation within the preceding 3-year period, a monetary penalty not to exceed \$2,500 per day for each day the entity remains in violation with NRS 439B.840.

b. Upon the second violation and all subsequent violations within the preceding 3-year period, a monetary penalty not to exceed \$5,000 per day for each day the entity remains in violation of NRS 439B.840.

c. Upon the initial decision to assess a penalty the Department shall notify the data submitter of its decision in writing, including the provisions of law, regulation, or Data Submission Guide section of which the submitter is in violation, and indicating the right to request an administrative hearing within 90 days of the date of the written notice.

6. *If a request for an administrative hearing is received via certified mail within 90 days, the Department shall then notify the submitter, in writing, of the time, place, and nature of the hearing.*
8. *The Department shall review the case regarding all matters concerning the disputed penalty under a standard of review which affords deference to the Department's determination.*
9. *The outcome of the administrative hearing shall be deemed as the exhaustion of administrative remedies regarding the same and must be a decision by a hearing officer provided in writing and detailing the findings and support for the same.*

Sec. 11

1. The Department may grant a waiver of reporting requirements to a reporting requirement deadline if the person or entity making such request submits the request pursuant to the requirements as set forth in this section and in the Data Submission Guide.

(a) A data submitter may request a waiver from submission for a period of time affecting the data submitter's ability to comply with the reporting requirement for that period.

(b) The request shall be for no more than one reporting year and shall contain a detailed explanation as to the reason the data submitter is unable to meet the reporting requirements.

(c) The request must be submitted to the Department at least 60 calendar days prior to the applicable reporting deadline.

(d) Upon receipt of a timely request for waiver, the Department shall stay the applicable reporting deadline while the Department determines whether to approve or deny the request. If the request is not more than 30 days before a required act of compliance on the part of the data submitter, then the data submitter may be responsible for any related penalties for non-compliance if the request is denied.

(e) Within 30 calendar days of receipt of a timely request for waiver, the Department shall issue a written determination to the data submitter as to whether the Department has approved or denied the request.

i. If the Department approves the request, the determination must explain whether the request is approved for the entire period requested or for a period less than requested.

ii. If the request is denied, the data submitter must comply with all applicable reporting requirements within 10 calendar days of the date of the written determination.

iii. The denial of a requested waiver is not subject to hearing rights. The penalty related to any attendant noncompliance as a result of a failure to meet a requirement does carry hearing rights.

2. The Department may grant an extension to a reporting requirement deadline if the person or entity making such request submits the request pursuant to the requirements as set forth in this section and in the Data Submission Guide. A data submitter may submit a request to the Department for an extension of time to comply with applicable reporting requirements.

(a) The request shall be for no more than one reporting quarter and shall contain a detailed explanation as to the reason the data submitter is unable to meet the reporting requirements for that quarter.

(b) A request for an extension must be submitted to the Department at least 30 calendar days prior to the applicable reporting deadline.

i. If the data submitter is unable to submit a request for an extension to the Department at least 30 days prior to the applicable reporting deadline, then the data submitter shall notify the Department in writing as soon as the data submitter determines that an extension is necessary.

(c) Upon receipt of a timely request for an extension, the Department shall stay the applicable reporting deadline while the Department determines whether to approve or deny the request.

i. If the request is not more than 30 days before a required act of compliance on the part of the data submitter, then the data submitter may be responsible for any related penalties for non-compliance if the request is denied.

(d) Within 15 calendar days of receipt of a request for extension, the Department shall issue a written determination to the data submitter as to whether the Department has approved or denied the request.

i. If the request is denied, the data submitter must comply with all applicable reporting requirements deadlines.

ii. If the denial determination is issued after the applicable reporting requirement deadline has passed, then the submitter must comply within 15 calendar days of the date of the written determination.

iii. The denial of a requested extension is not subject to hearing rights, however, the penalty related to any attendant noncompliance as a result of a failure to meet a requirement does carry hearing rights.