

# Administrative Rule Analysis



## MICHIGAN MEDICAL MARIHUANA

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**Department: Licensing and Regulatory Affairs**  
**Agency: Bureau of Health Care Services**  
**Rule Set No.: 2013-108-LR**

**Complete to: 09/05/2014**

## BACKGROUND & SUMMARY OF PROPOSED RULES SUBMITTED TO JCAR

The amended, added, and rescinded rules proposed by 2013-108-LR pertain to numerous regulatory issues concerning the Medical Marihuana Program subsequent to a comprehensive reevaluation and generally bring the administrative rules for the Medical Marihuana Program in conformity with the Michigan Medical Marihuana Act of 2008, as amended by PAs 512 and 514 of 2012, while also codifying and clarifying departmental administrative and regulatory practices and processes, including the permissibility of an internet-based application process.

Of particular relevance for fiscal analysis is the proposed revisions to the fee schedule under the Medical Marihuana Program. Section 5 of the Michigan Medical Marihuana Act of 2008 stipulates that LARA “shall establish application and renewal fees that generate revenues sufficient to offset all expenses of implementing and administering this act.” Currently, the biennial application fee for qualifying patients’ registry identification cards is \$100 or \$25 if a patient is enrolled in Medicaid or receives Social Security Income benefits. Prior to the amendments made by 2012 PA 514 and effective on April 01, 2013 stipulating biennial renewal of registry identification cards, the department required the payment of these application fees annually. Additionally, the department requires that patients or caregivers pay a \$10 fee for duplicate registry identification cards.

Under the proposed rules, the biennial application fee would be \$60 for all patients regardless of income or assets. According to data provided by the department, approximately 22,147 patients qualified for the reduced application fee, which was 18.6% of the total 118,906 initial and renewal applications received during FY 2013. Additionally, the department would charge a new processing fee of \$25 for criminal background checks of registered caregivers, continue charging \$10 for duplicate or revised registry identification cards, and recognize in rules the \$10 fee currently charged for “change of form” requests from patients or caregivers.

Section 6 of the Michigan Medical Marihuana Act of 2008 creates the Michigan Medical Marihuana Fund and requires that “all fees collected under this act shall be deposited into the fund...and shall not lapse to the general fund,” and that LARA “shall expend money from the fund, upon appropriation, for the operation and oversight of the Michigan Medical Marihuana Program.” Beginning in FY 2015, pursuant to boilerplate language incorporated into the budget, these expenditures will include grants to county law enforcement offices based on the proportion of registry identification cards issued within each county for education, enforcement, and communication activities under the Michigan Medical Marihuana Act of 2008.

## FISCAL IMPACT OF PROPOSED RULES

The revised fee schedule proposed by 2013-105-LR (biennial application fee of \$60 and background check processing fee of \$25) would engender an overall reduction of the amount of the revenue collected under the Medical Marihuana Program. Revenue collections for the Program are currently expected to decrease due to shift from annual renewals of registry identification cards to biennial renewals stipulated by 2012 PA 514, from approximately \$10.4 million to approximately \$7.9 million. Calculations based on information and assumptions provided by the department, result in an estimated additional reduction of \$1.2 million, to \$6.7 million annually, due to the proposed revised fee schedule. Withal, eliminating the reduced application fee would eliminate the amount of time that departmental staff expend verifying the supporting documentation required for patients to qualify for the reduced application fee.

Furthermore, the department anticipates that implementing an internet-based application process would save a significant, yet indeterminate, amount of staff time and resources. Although, the department estimates the one-time cost to develop and implement the internet-based application IT system at \$2.9 million.

As exhibited by the table that follows, revenue collected under the Medical Marihuana Program has consistently and substantially exceeded expenditures made to administer, implement, operate, and oversee the Program. Nevertheless, with the shift from annual renewals of registry identification cards to biennial renewals stipulated by 2012 PA 514 anticipated to begin reducing revenue during FY 2014 along with the \$3.0 million appropriated for grants to county law enforcement offices beginning in FY 2015, expenditures are likely to offset or possibly exceed revenue in future years. As of September 05, 2014, the balance within the Michigan Medical Marihuana Fund is \$27.5 million which does not lapse to the General Fund and is restricted for the operation and oversight of the Program.

| <b>Medical Marihuana Program Finances</b> |                |                     |                    |                     |
|---|----------------|---------------------|--------------------|---------------------|
| <b>Fiscal Year</b>                        | <b>Revenue</b> | <b>Expenditures</b> | <b>Net Revenue</b> | <b>Fund Balance</b> |
| FY 09                                     | \$438,900      | \$130,479           | \$308,421          | \$308,421           |
| FY 10                                     | \$2,418,651    | \$740,679           | \$1,677,972        | \$1,986,393         |
| FY 11                                     | \$10,425,423   | \$1,862,300         | \$8,563,123        | \$10,549,516        |
| FY 12                                     | \$9,896,239    | \$3,755,601         | \$6,140,638        | \$16,690,154        |
| FY 13                                     | \$10,612,250   | \$3,767,452         | \$6,844,798        | \$23,534,952        |
| FY 14 YTD                                 | \$8,452,909    | \$4,501,609         | \$3,951,300        | \$27,486,252        |

SOURCE: Email communication with the Financial and Administrative Services Team within LARA and HFA queries of MAIN database on 09/05/14.

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