

WISCONSIN LEGISLATIVE COUNCIL STAFF

LCRC
FORM 2

RULES CLEARINGHOUSE

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CLEARINGHOUSE REPORT TO AGENCY

[THIS REPORT HAS BEEN PREPARED PURSUANT TO S. 227.15, STATS. THIS IS A REPORT ON A RULE AS ORIGINALLY PROPOSED BY THE AGENCY; THE REPORT MAY NOT REFLECT THE FINAL CONTENT OF THE RULE IN FINAL DRAFT FORM AS IT WILL BE SUBMITTED TO THE LEGISLATURE. THIS REPORT CONSTITUTES A REVIEW OF, BUT NOT APPROVAL OR DISAPPROVAL OF, THE SUBSTANTIVE CONTENT AND TECHNICAL ACCURACY OF THE RULE.]

CLEARINGHOUSE RULE 99-112

AN ORDER to amend HFS 105.39 (4) (b) 3., relating to refresher training requirements in cardiopulmonary resuscitation (CPR) and first aid for drivers of specialized medical vehicles (SMVs) under the medical assistance (MA) program.

Submitted by **DEPARTMENT OF HEALTH AND FAMILY SERVICES**

07-15-99 RECEIVED BY LEGISLATIVE COUNCIL.
08-02-99 REPORT SENT TO AGENCY.

RNS:PS:jal

LEGISLATIVE COUNCIL RULES CLEARINGHOUSE REPORT

This rule has been reviewed by the Rules Clearinghouse. Based on that review, comments are reported as noted below:

1. STATUTORY AUTHORITY [s. 227.15 (2) (a)]

Comment Attached YES NO

2. FORM, STYLE AND PLACEMENT IN ADMINISTRATIVE CODE [s. 227.15 (2) (c)]

Comment Attached YES NO

3. CONFLICT WITH OR DUPLICATION OF EXISTING RULES [s. 227.15 (2) (d)]

Comment Attached YES NO

4. ADEQUACY OF REFERENCES TO RELATED STATUTES, RULES AND FORMS
[s. 227.15 (2) (e)]

Comment Attached YES NO

5. CLARITY, GRAMMAR, PUNCTUATION AND USE OF PLAIN LANGUAGE [s. 227.15 (2) (f)]

Comment Attached YES NO

6. POTENTIAL CONFLICTS WITH, AND COMPARABILITY TO, RELATED FEDERAL
REGULATIONS [s. 227.15 (2) (g)]

Comment Attached YES NO

7. COMPLIANCE WITH PERMIT ACTION DEADLINE REQUIREMENTS [s. 227.15 (2) (h)]

Comment Attached YES NO

PROPOSED ORDER OF THE
DEPARTMENT OF HEALTH AND FAMILY SERVICES
AMENDING A RULE

To amend HFS 105.39 (4) (b) 3., relating to refresher training requirements in cardiopulmonary resuscitation (CPR) and first aid for drivers of specialized medical vehicles (SMVs) under the medical assistance (MA) program.

Analysis Prepared by the Department of Health and Family Services

The Department's rules for certification of specialized motor vehicle (SMV) providers under the Medical Assistance (MA) program include requirements for SMV drivers. Among current requirements is that each driver must receive training in first aid and cardiopulmonary resuscitation (CPR) before driving a vehicle or serving as an attendant and must receive refresher training in first aid every 2 years and refresher training in CPR annually. The specific requirements for refresher training date from December 1, 1994. When revising its rules for SMV providers earlier in 1994 the Department proposed to require refresher training every 2 years for both first aid and CPR, but at the public hearings on the proposed rules 5 SMV providers said the CPR refresher training should take place annually and the Department agreed and made that its requirement.

Although the American Red Cross CPR training and certification that the person is trained continue to be annual, the equivalent American Heart Association CPR training and certification (the American Heart Association prefers "recognition" to "certification") is now every 2 years. This means that to comply with the Department's current MA rule for SMV drivers, s. HFS 105.39 (4) (b) 3., drivers who receive their training from the American Heart Association must repeat the training each year. That is unnecessary for maintenance of American Heart Association certification (recognition) and the time and expense involved is a burden on SMV providers and drivers. The Department is modifying the rule through this order to simply require that drivers maintain CPR certification.

The Department through this order is also changing the requirement for refresher training in first aid from every 2 years to at least every 3 years. That is because the American Red Cross certification in first aid is now for 3 years. A requirement for more frequent refresher training in first aid is a burden in time and expense involved for SMV providers and drivers.

The Department's authority to amend this rule is found in s. 49.45 (10), Stats. The rule interprets ss. 49.43 to 49.497, Stats.

SECTION 1. HFS 105.39 (4) (b) 3. is amended to read:

HFS 105.39 (4) (b) 3. Each driver shall receive refresher training in first aid at least every 2 3 years and refresher training in CPR annually shall maintain CPR certification. A driver who is an emergency medical technician licensed under ch. HFS 110, 111 or 112, a licensed practical nurse, a registered nurse or a physician assistant shall be considered to have met ~~this requirement~~ these requirements by completion of continuing education which includes first aid and CPR.

The rule contained in this order shall take effect on the first day of the month following publication in the Wisconsin Administrative Register, as provided in s. 227.22 (2), Stats.

Wisconsin Department of Health and
Family Services

Dated:

By: _____
Joseph Llean
Secretary

SEAL:



State of Wisconsin
Department of Health and Family Services

Tommy G. Thompson, Governor
Joe Lecaan, Secretary

October 14, 1999

~~The~~ Honorable Judy Robson, Co-Chairperson
Joint Committee for Review of Administrative Rules
Room 15 South, State Capitol
Madison, Wisconsin

Dear Senator Robson:

The Department of Health and Family Services has three emergency rulemaking orders in effect that will expire before the emergency rules are replaced by permanent rules unless the effective periods of the emergency orders are extended. Pursuant to s. 227.24(2), Stats., I ask the Joint Committee to extend the effective periods of the emergency orders by the number of days indicated below. The emergency rules are as follows:

1. **Operation of BadgerCare.** These emergency rules, amendments to HFS 101 to 103 and 108, were published on July 1, 1999, and will expire on November 27, 1999, unless extended. The order creates rules for the operation of the BadgerCare program under s. 49.665, Stats. Under BadgerCare, families with incomes up to 185% of the federal poverty level, but not low enough to be eligible for regular Medical Assistance (MA) coverage of their health care costs, and that lack access to group health insurance, are eligible to have BadgerCare pay for their health care costs. Benefits under BadgerCare are identical to the comprehensive package of benefits provided by MA. The order modifies the Department's MA rules to fit in the BadgerCare program. Replacement permanent rules were sent to the Legislative Council for review on July 9, 1999 and taken to public hearings in late August 1999. The Department expects to send them to the Legislature for review in early November 1999 but will not be able to file them until at least mid-December for a February 1, 2000 effective date. Therefore I request an extension of the effective period of the emergency rules by 60 days, through January 25, 2000. If the effective period of the emergency rules is not extended, in the interim the Department will not have the authority to operate BadgerCare.

2. **Operation of the Health Insurance Risk-Sharing Plan (HIRSP).** These emergency rules, amendments to HFS 119, were published to take effect on July 1, 1999, and will expire on November 27, 1999, unless extended. The order increases premium rates for both unsubsidized and subsidized policies that provide supplemental coverage for persons eligible for Medicare and adjusts total insurer assessments and provider payment rates for the last 6 months of 1999 and again for the first 6 months of 2000. The Department is authorized by s. 149.143 (4), Stats., to promulgate these rule changes by using emergency rulemaking procedures but without having to make a finding of emergency. Identical replacement permanent rules were sent to the Legislative Council for review on July 14, 1999 and were taken to public hearing on September 9, 1999. The Department expects to send them to the Legislature for review by the end of October 1999

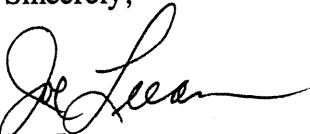
Senator Robson
October 14, 1999
Page 2

but will not be able to file them until at least mid-December 1999 for a February 1, 2000 effective date. Therefore I request an extension of the effective period of the emergency rules by 60 days, through January 25, 2000.

3. Refresher Training in CPR and First Aid for Specialized Medical Vehicle (SMV) Drivers under the Medical Assistance Program. These emergency rules, amendments to HFS 105.39 (4) (b) 3., were published on July 3, 1999, and will expire on November 29, 1999, unless extended. The order updates requirements for refresher training in cardiopulmonary resuscitation (CPR) and first aid for drivers of specialized medical vehicles (SMVs) under the Medical Assistance program. The Department's intention in publishing the rule changes by emergency order was to relieve SMV providers and drivers of the time and expense of training requirements that were in excess of the requirements of the organizations that certified the drivers on the basis of the training. Replacement permanent rule amendments were sent to the Legislative Council for review on July 15, 1999, taken to public hearing on September 1, 1999, and submitted to the Legislature on September 23, 1999, for review by standing committees, but cannot be filed until mid-November 1999 for an expected January 1, 2000 effective date. Therefore, I request an extension of the effective period of the emergency rules by 33 days, through December 31, 1999. If the effective period of the emergency amendments is not extended, in the interim some SMV providers and drivers would be once again needlessly burdened by the requirements in effect before July 3, 1999.

Copies of the three emergency rulemaking orders are attached to this letter. If you have any questions about the emergency rules relating to the operation of HIRSP, you may contact Randy McElhose of the Department's Division of Health Care Financing at 267-7127. If you have any questions about the emergency rules relating to the operation of BadgerCare, you may contact Jim Jones of the Department's Division of Health Care Financing at 266-9435. If you have any questions about the emergency rules relating to refresher training in CPR and first aid for drivers of specialized medical vehicles under the Medical Assistance program, you may contact Alfred Matano at 267-6848.

Sincerely,



Joe Leean
Secretary

Attachments

cc Representative Grothman

SEP 23 1999



Tommy G. Thompson
Governor

Joe Leean
Secretary

State of Wisconsin

Department of Health and Family Services

OFFICE OF LEGAL COUNSEL

1 WEST WILSON STREET
P.O. BOX 7850
MADISON WI 53707-7850

TELEPHONE: (608) 266-8428

September 23, 1999

The Honorable Fred Risser, President
Wisconsin State Senate
1 East Main, Suite 402
Madison, WI 53702

The Honorable Scott Jensen, Speaker
Wisconsin State Assembly
1 East Main, Suite 402
Madison, WI 53702

Re: Clearinghouse Rule 99-112

HFS 105.39 (4) (b) 3., relating to refresher training requirements in cardiopulmonary resuscitation (CPR) and first aid for drivers of specialized medical vehicles (SMVs) under the medical assistance (MA) program.

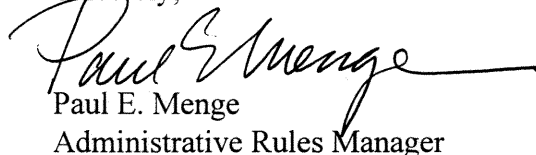
Gentlemen:

In accordance with the provisions of s. 227.19(2), Stats., you are hereby notified that the above-mentioned rules are in final draft form. This notice and the report required by s. 227.19(3), Stats., are submitted herewith in triplicate.

The rules were submitted to the Legislative Council for review under s. 227.15, Stats. A copy of the Council's report is also enclosed.

If you have any questions about the rules, please contact Alfred Matano at 267-6848.

Sincerely,


Paul E. Menge
Administrative Rules Manager

cc Gary Poulson, Deputy Revisor of Statutes
↳ Senator Judy Robson, JCRAR
Representative Glenn Grothman, JCRAR
Alfred Matano, Division of Health Care Financing
Kevin Lewis, Secretary's Office

PROPOSED ADMINISTRATIVE RULES – HFS 105.39 (4) (b) 3.
ANALYSIS FOR LEGISLATIVE STANDING COMMITTEES
PURSUANT TO S. 227.19 (3), STATS.

Need for Rules

The Department's rules for certification of specialized motor vehicle (SMV) providers under the Medical Assistance (MA) program include requirements for SMV drivers. Among current requirements is that each driver must receive training in first aid and cardiopulmonary resuscitation (CPR) before driving a vehicle or serving as an attendant and must receive refresher training in first aid every 2 years and refresher training in CPR annually. The specific requirements for refresher training date from December 1, 1994. When revising its rules for SMV providers earlier in 1994 the Department proposed to require refresher training every 2 years for both first aid and CPR, but at the public hearings on the proposed rules 5 SMV providers said the CPR refresher training should take place annually and the Department agreed and made that its requirement.

Although the American Red Cross CPR training and certification that the person is trained continue to be annual, the equivalent American Heart Association CPR training and certification (the American Heart Association prefers "recognition" to "certification") is now every 2 years. This means that to comply with the Department's current MA rule for SMV drivers, s. HFS 105.39 (4) (b) 3., drivers who receive their training from the American Heart Association must repeat the training each year. That is unnecessary for maintenance of American Heart Association certification (recognition) and the time and expense involved is a burden on SMV providers and drivers. The Department is modifying the rule through this order to simply require that drivers maintain CPR certification.

The Department through this order is also changing the requirement for refresher training in first aid from every 2 years to at least every 3 years. That is because the American Red Cross certification in first aid is now for 3 years. A requirement for more frequent refresher training in first aid is a burden in time and expense involved for SMV providers and drivers.

Section HFS 105.39 (4) (b) 3. was amended by emergency order effective July 3, 1999. This permanent order makes the identical changes in the rule.

Responses to Clearinghouse Recommendations

The Legislative Council's Rules Clearinghouse reviewed the proposed rule amendments but did not have any comments on them.

Public Review

A public hearing on the proposed amendment of s. HFS 105.39 (4) (b) 3. was held in Madison on September 1, 1999. No one appeared at the hearing. The hearing record was kept open until September 8, 1999, for receipt of written comments. No written comments were received.

Final Regulatory Flexibility Analysis

Nearly all of the 191 MA-certified SMV providers are small businesses as "small business" is defined in s. 227.114 (1) (a), Stats. Many of the SMV providers and their drivers affected by the amendment of s. HFS 105.39 (4) (b) 3.

The amendments change the required frequency of SMV driver refresher training in first aid from every 2 years to at least every 3 years and substitute having the drivers get the refresher training in CPR that they need in order to maintain certification for the requirement that they receive refresher training in CPR annually.

Because of this updating of s. HFS 105.39 (4) (b) 3., some SMV providers are likely to realize savings in training costs and providing coverage for drivers taking training. Drivers will not have to receive refresher training in first aid and CPR as often as they did before publication of the emergency rules. Consequently, the amendments themselves provide regulatory relief to some small businesses.

No comments were received on the emergency and proposed permanent rule changes during public review of them.



Tommy G. Thompson
Governor

Joe Leean
Secretary

State of Wisconsin

Department of Health and Family Services

OFFICE OF LEGAL COUNSEL

1 WEST WILSON STREET
P.O. BOX 7850
MADISON WI 53707-7850

TELEPHONE: (608) 266-8428

July 1, 1999

JUL 01 REC'D

✓ The Honorable Judy Robson, Co-Chairperson
Joint Committee for Review of Administrative Rules
Room 15 South, State Capitol
Madison, Wisconsin

The Honorable Glenn Grothman, Co-Chairperson
Joint Committee for Review of Administrative Rules
Room 15 North, State Capitol
Madison, Wisconsin

Dear Senator Robson and Representative Grothman:

This is notification that the Department on July 3, 1999 will publish an emergency rulemaking order to amend its rules for certification of specialized medical vehicle (SMV) providers under the Medical Assistance program in order to update requirements that SMV drivers periodically receive refresher training in CPR and first aid. A copy of the emergency order is attached to this letter.

The amendment to s. HFS 105.39 (4) (b) 3. was in part requested by Representative Luther Olsen. At the May 1999 meeting of JCRAR, Representative Olsen, on behalf of a constituent, pointed out that the current rule requires drivers to have more frequent training in CPR than is necessary for certification by the American Heart Association. In follow-up discussions of Department staff with representatives of the American Red Cross and the American Heart Association, the Department also learned that re-certification by the American Red Cross in first aid, following refresher training, is now every 3 years rather than the 2 years currently stated in the rule. The Department through this emergency order has updated both requirements to relieve SMV providers and drivers of the time and expense of training requirements that are in excess of the requirements of the certifying organizations.

If you have any questions about the emergency rules relating to the requirement for SMV driver refresher training in CPR and first aid, you may contact Alfred Matano of the Department's Division of Health Care Financing at 267-6848.

Sincerely,

Paul E. Menge
Administrative Rules Manager

Attachments

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JUL 09 REC'D

ORDER OF THE
DEPARTMENT OF HEALTH AND FAMILY SERVICES
AMENDING RULES

FINDING OF EMERGENCY

The Department of Health and Family Services finds that an emergency exists and that the adoption of the rules included in this order is necessary for the immediate preservation of the public peace, health, safety or welfare. The facts constituting the emergency are as follows:

The Department's rules for certification of specialized motor vehicle (SMV) providers under the Medical Assistance (MA) program include requirements for SMV drivers. Among current requirements is that each driver must receive training in first aid and cardiopulmonary resuscitation (CPR) before driving a vehicle or serving as an attendant and must receive refresher training in first aid every 2 years and refresher training in CPR annually. The specific requirements for refresher training date from December 1, 1994. When revising its rules for SMV providers earlier in 1994 the Department proposed to require refresher training every 2 years for both first aid and CPR, but at the public hearings on the proposed rules 5 SMV providers said the CPR refresher training should take place annually and the Department agreed and made that its requirement.

Although the American Red Cross CPR training and certification that the person is trained continue to be annual, the equivalent American Heart Association CPR training and certification (the American Heart Association prefers "recognition" to "certification") is now every 2 years. This means that to comply with the Department's current MA rule for SMV drivers, s. HFS 105.39 (4) (b) 3., drivers who receive their training from the American Heart Association must repeat the training each year. That is unnecessary for maintenance of American Heart Association certification (recognition) and the time and expense involved is a burden on SMV providers and drivers. The Department is modifying the rule through this order to simply require that drivers maintain CPR certification.

The Department through this order is also changing the requirement for refresher training in first aid from every 2 years to at least every 3 years. That is because the American Red Cross certification in first aid is now for 3 years. A requirement for more frequent refresher training in first aid is a burden in time and expense involved for SMV providers and drivers.

ORDER

Pursuant to authority vested in the Department of Health and Family Services by ss. 49.45 (10) and 227.24 (1), Stats., the Department of Health and Family Services hereby amends rules interpreting ss. 49.43 to 49.497, Stats., as follows:

SECTION 1. HFS 105.39 (4) (b) 3. is amended to read:

HFS 105.39 (4) (b) 3. Each driver shall receive refresher training in first aid at least every 2 3 years and refresher training in CPR annually shall maintain CPR certification. A driver who is an emergency medical technician licensed under ch. HFS 110, 111 or 112, a licensed practical nurse, a registered nurse or a physician assistant shall be considered to have met ~~this requirement~~ these requirements by completion of continuing education which includes first aid and CPR.

The rule contained in this order shall take effect as an emergency rule upon publication in the official state newspaper as provided in s. 227.24 (1) (c), Stats.

Wisconsin Department of Health and
Family Services

Dated: June 30, 1999

By: 

Joseph Legan
Secretary

SEAL:

FISCAL ESTIMATE FORM

1999 Session

- ORIGINAL UPDATED
 CORRECTED SUPPLEMENTAL

LRB #

INTRODUCTION #

Admin. Rule # HFS 105.39 (4) (b) 3.

Subject

MEDICAL ASSISTANCE: REQUIREMENT THAT DRIVERS OF SPECIALIZED MEDICAL VEHICLES (SMVs) BE TRAINED IN FIRST AID AND CARDIOPULMONARY RESUSCITATION (CPR)

Fiscal Effect

State: No State Fiscal Effect

Check columns below only if bill makes a direct appropriation or affects a sum sufficient appropriation.

Increase Costs - May be possible to Absorb Within Agency's Budget Yes No

- Increase Existing Appropriation Increase Existing Revenues
 Decrease Existing Appropriation Decrease Existing Revenues
 Create New Appropriation

Decrease Costs

Local: No local government costs

1. Increase Costs
 Permissive Mandatory
2. Decrease Costs
 Permissive Mandatory

3. Increase Revenues
 Permissive Mandatory
4. Decrease Revenues
 Permissive Mandatory

5. Types of Local Governmental Units Affected:
 Towns Villages Cities
 Counties Others _____
 School Districts WTCS Districts

Fund Sources Affected

- GPR FED PRO PRS SEG SEG-S

Affected Ch. 20 Appropriations

Assumptions Used in Arriving at Fiscal Estimate:

These amendments to the Department's rules for certification of specialized medical vehicle (SMV) providers under the Medical Assistance (MA) program will not affect the expenditures or revenues of state government or local governments.

Section HFS 105.39 (4) (b) 3. currently requires SMV drivers, before driving a vehicle or serving as an attendant in a vehicle, to have basic Red Cross or equivalent training in first aid and cardiopulmonary resuscitation (CPR), and to have refresher training in first aid every 2 years and refresher training in CPR annually.

This order changes the refresher training requirement for first aid to at least every 3 years because the American Red Cross certification in first aid has been changed from 2 years to 3 years. The order changes the CPR refresher training requirement to a requirement that each driver simply maintain CPR certification since the American Heart Association certification ("recognition") in CPR is now for 2 years.

The rule changes will save time and money for some SMV providers who under current rules must take more frequent training than necessary to maintain certification in CPR or first aid.

In April 1999 there were 191 MA-certified SMV providers. None of them were operated by state government or local governments.

Long-Range Fiscal Implications:

Prepared By: / Phone # / Agency Name

DHFS/Alfred Matano, 267-6848

Authorized Signature / Telephone No.

John Kiesow, 266-9622

Date

6-29-99