WISCONSIN LEGISLATIVE COUNCIL
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CLEARINGHOUSE RULE 02-083

Comments

[NOTE: All citations to "Manual" in the comments below are to the Administrative Rules Procedures Manual, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated September 1998.]

1. Statutory Authority

When discussing the premiums for the major medical plan (Plan 1) for both Option A ($1,000 deductible) and Option B ($2,500 deductible), the last sentence of the second paragraph of the analysis indicates that health insurance risk-sharing plan (HIRSP) premiums must fund 60% of plan costs and cannot be less than 150% of the amount an individual would be charged for a comparable policy in the private market. This statement is true for Plan 1, Option A according to s. 149.143 (1) (b) 1. c. and (2) (a) 2., Stats., although it would be useful to further indicate that the premium may not be more than 200% of that amount.

However, for Plan 1, Option B, the premium is established under s. 149.146 (2) (b), Stats., which indicates that the rates for coverage under the $2,500 choice of coverage plan must be set such that they differ from the rates of coverage under Plan 1, Option A by the same percentage as the percentage difference between the following: (1) the rate that a standard risk would be charged under an individual policy providing substantially the same coverage and deductibles as provided under s. 149.14 (2) (a) and (5) (a), Stats.; and (2) the rate that a standard risk would be charged under an individual policy providing substantially the coverage and deductibles as the coverage offered under Plan 1, Option B. This is not explained in the analysis. Were the premiums for Plan 1, Option B determined on the basis set forth in s. 149.146 (2) (b), Stats.?

2. Form, Style and Placement in Administrative Code

a. The analysis should include a statutes interpreted section, as well as a statutory authority section. [s. 1.02 (2) (a), Manual.]

b. SECTIONS 1, 2, 3, and 4 amend s. HFS 119.07 (6) (b) to (d). Because they are affected by the same treatment and are consecutively numbered, s. HFS 119.07 (6) (b) to (d) could be included in a single SECTION. [s. 1.04 (2) (a) 1., Manual.] Even if this is not done, the treatment clauses should be simplified because the tables are part of each paragraph. For example, SECTION 1 should indicate that "HFS 119.07 (6) (b) is amended to read:".

c. In s. HFS 119.07 (6) (b), "(intro.)" should be deleted. A similar comment applies to SECTIONS 2, 3, and 4.

d. In SECTIONS 2 and 3, the title to par. (c) in s. HFS 119.07 (6) (c) should not be shown. [s. 1.05 (3) (c), Manual.]

e. In s. HFS 119.07 (6) (d), the reference to "family with two or more" should be changed to "family with ~~two~~ 2 or more." [s. 1.01 (5), Manual.]

f. In s. HFS 119.15 (3), the two references to "Health Insurance Risk-Sharing Plan" should be changed to "HIRSP" which is a defined term in s. HFS 119.04 (7).

4. Adequacy of References to Related Statutes, Rules and Forms

The statutory authority section refers only to ss. 149.143 (2) (a) 2., 3., and 4., and (3) and 227.11 (2), Stats. However, other statutes provide authority for the promulgation of this rule, and consideration should be given to adding ss. 149.14 (8) (a), 149.142, 149.16 (2) (b), and 149.17 (4), Stats.

5. Clarity, Grammar, Punctuation and Use of Plain Language

a. In the statutory authority section of the transmittal and the first paragraph of the order, commas should be inserted in the subdivision of paragraphs in s. 149.143 (2) (a) 2., 3., and 4., Stats.

b. Section HFS 119.15 (3) indicates that HIRSP provider payment rates may not exceed "allowed charges" and, in the case of hospital outpatient services, indicates that payment rates are set at 59.93% of "allowed charges." "Allowed charges" is not a defined term in ch. HFS 119 or ch. HFS 149, Stats. Because the term is not defined, its meaning is unclear. Was the intent to refer to allowable charges under the Medicaid program as discussed in s. 149.142 (1) (a), Stats., or rates adjusted for the HIRSP program under ss. 149.143 and 149.144, Stats., as allowed under s. 149.142 (2), Stats.? This should be clarified.

c. Section HFS 119.15 (3) refers to "diagnosis related groups (DRGs)" and later refers to "DRG weights." First, it appears that the reference should have been to "diagnostically related groups" as that is the term used in s. HFS 149.142 (1) (a), Stats. Second, if an acronym is

used, it must be defined in the definitions section. [s. 1.01 (8), Manual.] As an alternative to using the acronym, the term could be repeated.

d. In the last sentence of s. HFS 119.15 (3), the phrase "including physicians, labs and therapies" should be set off by commas. Also, all of the occurrences of the word "per" should be replaced by the word "under."