CR 86-57

STATE OF WISCONSIN)
)
OFFICE OF THE COMMISSIONER OF INSURANCE)

TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETINGS:

I, Randy Blumer, Deputy Commissioner of Insurance and custodian of the official records of said office, do hereby certify that the annexed order repealing and recreating the Patients Compensation Fund rule was issued by this office on July 25, 1986.

I further certify that said copy has been compared by me with the original on file in this office and that the same is a true copy thereof, and of the whole of such original.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name in the City of Madison, State of Wisconsin, this 25th day of July, 1986.

Randy Blumer

Randy Blumer
Deputy Commissioner of Insurance

6008s1

ORDER OF THE COMMISSIONER OF INSURANCE

REPEALING AND RECREATING A RULE

ANALYSIS PREPARED BY THE OFFICE OF THE

COMMISSIONER OF INSURANCE

The purpose of this rule is to repeal and recreate sections of Ins 17.28 which pertain to fees necessary to fund mediation panels created by s. 655.61, Stats.; to establish a new classification system of physicians and surgeons, created by s. 655.27 (3) (b) 2., Stats; to promulgate a new fee schedule, approved by the board of governors on June 4, 1986 to conform to the new classification system and to establish a scheduled payment plan mandated by s. 655.27 (3) (b), Stats. Ins 17.01, Ins 17.28 (3) (c) (intro) and 1 through 9, Ins 17.28 (4), Ins 17.28 (6) (intro) and (a) through (h) and Ins 17.28 (7) are repealed and recreated.

Revisions incorporated in this rule were mandated by 1985 Wisconsin Act 340 enacted on June 12, 1986 and published June 13, 1986.

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07/24/86

Pursuant to the authority vested in the Commissioner of Insurance by ss. 601.41 (3), 655.003 and 655.27 (3) (b), Stats., the Commissioner hereby repeals and recreates sections of a rule which implements and interprets ss. 655.27 (3) and 655.61, Stats., as follows:

SECTION 1. Ins 17.01 is repealed and recreated to read:

Ins 17.01 PAYMENT OF MEDIATION FUND FEES. (1) PURPOSE. This rule implements the provisions of s. 655.61, Stats., relating to the payment of mediation fund fees.

(2) PAYMENT OF FEES TO FINANCE THE MEDIATION SYSTEM. (a) Every physician practicing in the state, subject to ch. 655, Stats., excluding those in a residency or fellowship training program, and every hospital operating in the state, subject to ch. 655, Stats., shall pay to the commissioner of insurance an annual fee to finance the mediation system created by s. 655.42, Stats. The commissioner of insurance shall deposit all such fees collected in the mediation fund created by s. 655.68, Stats.

(b) The fee is due and payable upon receipt of the billing by the physician or hospital.

(c) Any physician or hospital who has not paid the fee within 30 days from the date the billing is received shall be deemed to be in noncompliance with s. 655.61 (1), Stats.

(d) The commissioner shall notify the department of regulation and licensing of each physician who has not paid the fee, and who is, therefore, in noncompliance with s. 655.61 (1), Stats.

(e) The commissioner shall notify the department of health and social services of each hospital which has not paid the fee, and which is, therefore, in noncompliance with s. 655.61 (1), Stats.

(3) FEE SCHEDULE. The following fee schedule shall be effective July 1, 1986:

(a) For physicians - $40.00

(b) For hospitals - $2.00 per bed

Mediation fees are not refundable.

SECTION 2. Ins 17.28 (3) (c) (intro.) and 1. through 9. are repealed and recreated to read:

(c) "Class" of physicians or surgeons means those health care providers whose specialties are similar in their degree of exposure to loss and who are subject to a common fee in accordance with the provisions of s. 655.27 (3) (b) 2., Stats. Classes and included specialties are listed below:

1. Class 1 health care providers are those engaged in the following medical specialties:

Aerospace Medicine

Allergy

Cardiovascular Disease - no surgery

Dermatology - no surgery

Diabetes - no surgery

Endocrinology - no surgery

Family Practice and General Practice - no surgery

Forensic Medicine

Gastroenterology - no surgery

General Preventative Medicine - no surgery

Geriatrics - no surgery

Gynecology - no surgery

Hematology - no surgery

Hypnosis

Infectious Diseases - no surgery

Internal Medicine - no surgery

Laryngology - no surgery

Legal Medicine

Neoplastic Diseases - no surgery

Nephrology - no surgery

Neurology - including child - no surgery

Nuclear Medicine

Nutrition

Occupational Medicine

Ophthamlmology - no surgery

Osteopathic Physicians - manipulation only

Otology - no surgery

Otorhinolaryngology - no surgery

Pathology - no surgery

Pediatrics - no surgery

Pharmacology - clinical

Physiatry

Physical Medicine and Rehabilitation

Physicians - no surgery

Psychiatry - including child

Psychoanalysis

Psychosomatic Medicine

Public Health

Pulmonary Diseases - no surgery

Radiology - diagnostic - no surgery

Rheumatology - no surgery

Rhinology - no surgery

Post Graduate Medical Education or Fellowship -- This classification applies to all physicians engaged in the first year of post graduate medical education (interns). This classification also applies to physicians engaged in two through six years of an approved post graduate medical education specialty program (residents) listed above which is not ordinarily involved in the performance of or assisting in the performance of obstetrical procedures or surgical (other than incision of boils and superficial abscesses or suturing of skin and superficial fascia) procedures.

2. Class 2 health care providers are those engaged in the following medical specialties:

Broncho-Esophagology

Cardiology - (including catheterization, but not including cardiac surgery)

Cardiovascular Disease - minor surgery

Dermatology - minor surgery

Diabetes - minor surgery

Emergency Medicine - no major surgery -- This classification applies to any general practitioner or specialist primarily engaged in emergency practice at a clinic, hospital or rescue facility who does not perform major surgery.

Endocrinology - minor surgery

Family Practice and General Practice - minor surgery - no obstetrics

Family Practice or General Practice (including obstetrics)

Gastroenterology - minor surgery

Geriatrics - minor surgery

Gynecology - minor surgery

Hematology - minor surgery

Infectious Diseases - minor surgery

Intensive Care Medicine

This classification applies to any general practitioner or specialist employed in an intensive care hospital unit.

Internal Medicine - minor surgery

Laryngology - minor surgery

Neoplastic Diseases - minor surgery

Nephrology - minor surgery

Neurology - including child - minor surgery

Ophthalmology - minor surgery

Otology - minor surgery

Otorhinolaryngology - minor surgery

Pathology - minor surgery

Pediatrics - minor surgery

Physicians - minor surgery

Radiology - diagnostic - minor surgery

Rhinology - minor surgery

Surgery - colon and rectal

Surgery - endocrinology

Surgery - gastroenterology

Surgery - general practice or family practice (not primarily engaged in major surgery)

Surgery - geriatrics

Surgery - neoplastic

Surgery - nephrology

Surgery - ophthalmology

Surgery - urological

Urgent Care - practice in urgent care, walk-in or after hours facilities

Post Graduate Medical Education or Fellowship -- This classification applies to physicians engaged in two through six years of an approved post graduate medical education specialty program listed above.

3. Class 3 health care providers are those engaged in the following medical specialties:

Anesthesiology - This classification applies to all providers who perform general anesthesia or acupuncture anesthesia

Emergency Medicine - including major surgery

Surgery - abdominal

Surgery - cardiac

Surgery - cardiovascular disease

Surgery - general (specialists in general surgery)

Surgery - gynecology

Surgery - hand

Surgery - head and neck

Surgery - laryngology

Surgery - orthopedic

Surgery - otology (no plastic surgery)

Surgery - otorhinolaryngology (no plastic surgery)

Surgery - plastic

Surgery - plastic - otorhinolaryngology

Surgery - rhinology

Surgery - thoracic

Surgery - traumatic

Surgery - vascular

Weight Control - bariatrics

Post Graduate Medical Education or Fellowship -- This classification applies to physicians engaged in two through six years of an approved post graduate medical education specialty program indicated above.

4. Class 4 health care providers are those engaged in the following medical specialties:

Surgery - neurology - including child

Surgery - Obstetrics and gynecology

Surgery - Obstetrics

Post Graduate Medical Education or Fellowship -- This classification applies to physicians engaged in two through six years of an approved post graduate medical education specialty program indicated above.

SECTION 3. Ins 17.28 (4) is repealed and recreated to read:

(4) PRO RATA FEES. A health care provider may enter or exit the fund at a date other than July 1 or June 30. In this subsection, "semimonthly period" means the 1st through the 14th day, or the 15th day through the end of each month.

(a) If a health care provider enters the fund subsequent to July 1, the fund shall charge the provider a fee of one-twenty-fourth (1/24) the annual fee for that class of provider for each semimonthly period between the date of entry and the next June 30.

(b) If a health care provider exits the fund prior to June 30, the fund shall issue the provider a refund or credit of one-twenty-fourth (1/24) the annual fee for that class or provider for each full semimonthly period between the date of exit and the next June 30. Retroactive class changes resulting in refunds or credits shall be processed retroactively for a maximum

of 60 days from the fund's receipt of the amended or renewal certificate. In no case shall the fund calculate refunds or credits on a previous fiscal year's assessment.

(c) If a health care provider changes class or type, which results in an increased assessment, the fund shall charge the provider an adjusted fee, comprised of one-twenty-fourth (1/24) the annual assessment for the old provider class for each full semimonthly period between the original assessment date and the date of change, and one-twenty-fourth (1/24) annual assessment for the new provider class for each semimonthly period between the date of change and next June 30.

(d) If a health care provider changes class or type, which results in a decreased assessment, the fund shall issue the provider an adjusted fee, comprised of one-twenty-fourth (1/24) the annual assessment for the old provider class for each semimonthly period between the original assessment date and the date of change, and one-twenty-fourth (1/24) the annual assessment for the new provider class for each full semimonthly period between the date of change and the next June 30. Retroactive class changes resulting in refunds or credits shall be processed retroactively for a maximum of 60 days from the fund's receipt of the amended or renewal certificate. In no case shall the fund calculate refunds or credits on a previous fiscal year's assessment.

(e) The effective date of the proof of financial responsibility required under s. 655.23 (2), Stats., as it applies to each individual health care provider, shall determine the date of entry to the fund. The cancellation or withdrawal of such proof shall establish the date of exit.

SECTION 4. Ins 17.28 (6) (intro.), (a) through (k) are repealed and recreated to read:

(6) FEE SCHEDULE. The following fee schedule shall be effective from July 1, 1986 to June 30, 1987:

(a) For physicians and surgeons:

Class 1	$ 1,939
Class 2	3,878
Class 3	9,695
Class 4	11,634

(b) For resident physicians and surgeons involved in post graduate medical education or a fellowship:

Class 1	$1,163
Class 2	2,326
Class 3	5,815
Class 4	6,978

(c) For resident physicians and surgeons who practice outside residency or fellowship:

All Classes	$1,163

(d) For Medical College of Wisconsin full time faculty:

Class 1	$ 776
Class 2	1,552
Class 3	3,880
Class 4	4,656

(e) For Medical College of Wisconsin resident physicians and surgeons:

1.

Class 1	$ 970
Class 2	1,940
Class 3	4,850
Class 4	5,820

(f) For government employes -- state, federal, municipal:

Class 1	$1,454
Class 2	2,908
Class 3	7,270
Class 4	8,724

(g) For retired or part time physicians and surgeons with an office practice only and no hospital admissions who practice less than 500 hours per fiscal year:

Physicians	$1,163
(h) For nurse anesthetists	$ 519
(i) For hospitals--per occupied bed	$ 148
(j) For nursing homes--per occupied bed	$ 28

SECTION 5. Ins 17.28 (7) is repealed and recreated to read:

(7) COLLECTION OF FEES. Beginning July 1, 1986, each health care provider permanently practicing or operating in the state may have the option to pay the assessment in a single lump sum, two semiannual payments, or four quarterly payments. This subsection implements s. 655.27 (3) (b), Stats.

(a) The fund shall issue an initial billing to each provider showing the assessment due, and the payment schedules available. Once the provider has selected a payment schedule, that schedule shall apply for the remainder of that fiscal year.

(b) All providers shall pay the billed assessment on or before the due date indicated on the assessment billing. Due dates vary according to type of assessment and date of assessment.

1. Renewal Assessments. The payment due dates for renewal assessments are:

a. Annual payment - July 1;

b. Semiannual payments - July 1, January 1;

c. Quarterly payments - July 1, October 1, January 1, April 1.

2. Initial Assessments or Assessments Written for Providers No Longer in Exempt Status. For a provider who is initially participating in the fund, and for a provider who can no longer claim an exempt status, the number of payment options shall be dependent on the date the fund processes the assessment billing.

a. The first payment, regardless of a lump sum, semiannual, or quarterly payment schedule, shall be due 30 days from the date the fund processes the assessment billing.

b. For semiannual payment schedules, the second payment shall be due on or before January 1. Any provider whose first payment due date is January 1 or later shall not be able to choose the semiannual payment schedule.

c. For quarterly payment schedules, payments shall be due on or before October 1, January 1, and April 1, respectively. In order for the provider to choose four quarterly payments, the first payment due date shall fall before October 1. If the first payment due date falls between October 1 and December 31, the provider shall have three quarterly payments, with the second and third payments due on or before January 1 and April 1. If the first payment due date falls between January 1 and March 31, the provider shall have two quarterly payments, with the second payment due on or before April 1. Any provider whose first payment due date is April 1 or later shall not be able to choose the quarterly payment schedule.

3. Increases in Assessments. If a provider changes class or type, which results in an increased assessment, the first payment resulting from that increase shall be due 30 days from the date the fund processes the increased assessment billing. The provider shall follow the same payment schedule selected with the original assessment billing when making payments for the increased assessment billing.

4. Decreases in Assessments. If a provider changes class or type, which results in a decreased assessment, or if a provider leaves the fund or becomes exempt, the provider may be entitled to a refund check or a credit to be applied to future payments during the current fiscal year. If the assessment amount already paid into the fund is greater than the recalculated assessment, the fund shall issue the provider a refund check. If the assessment amount already paid into the fund is less than the recalculated assessment, the fund shall credit the provider's account for any overpayment during the period(s) affected by the decreased assessment.

(c) The fund shall charge interest and an administrative service charge to each provider who chooses the semiannual or quarterly payment schedule. The rate of interest charged by the fund shall be the average annualized rate earned by the fund for the first three quarters of the preceding fiscal year as determined by the state investment board. The administrative service charge shall be used to offset costs of administering the payment plan. Interest and administrative service charges are not refundable.

This rule shall be effective on the first day of the month following publication in the Wisconsin Administrative Register in accordance with ss. 227.22 (2), Stats.

This rule supersedes emergency rule, Ins 17.28, published on July 2, 1986.

Dated at Madison, Wisconsin, this 25th day of July, 1986.

Randy Blumer

Randy Blumer
Deputy Commissioner of Insurance

56R13
07/24/86

The State of Wisconsin
Office of the Commissioner of Insurance

Thomas P. Fox
Commissioner
(608) 266-3585

DATE: July 25, 1986

TO: Gary Poulson

FROM: M. E. Van Cleave
Assistant Deputy Commissioner of Insurance

SUBJECT: Ins 17.01 and Ins 17.28, Clearinghouse Number 86-57

Enclosed are two copies of an Order of the Commissioner of Insurance repealing and recreating rules Ins 17.01 and Ins 17.27 relating to the Patients Compensation Fund.

MEV:LH:ams
Enclosure
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P.O. Box 7873 Madison, WI 53707