

RULES CERTIFICATE

STATE OF WISCONSIN)
) SS
DEPT. OF INDUSTRY,)
LABOR & HUMAN RELATIONS)

TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETINGS:

I, Carol Skornicka, Secretary of the Department of Industry, Labor and Human Relations, and custodian of the official records of said department, do hereby certify that the annexed rule(s) relating to Health Service Necessity of Treatment Dispute Resolution Process were duly approved and adopted by this department on May 13, 1992.
(Subject) *(Date)*

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

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the official seal of the department at 7:30 a.m. in the city of Madison, this 13th day of May A.D. 19 92.

Carol Skornicka
Secretary

RECEIVED

MAY 13 1992
9:00 am
Revisor of Statutes
Bureau

ORDER OF ADOPTION

Pursuant to authority vested in the Department of Industry, Labor and Human Relations by section(s) 102.16 (2m),

Stats., the Department of Industry, Labor and Human Relations creates;

amends; repeals and recreates; repeals and adopts rules of Wisconsin

Administrative Code chapter (s):

Ind 80.73

(Number)

Health Service Necessity of Treatment Dispute
Resolution Process

(Title)

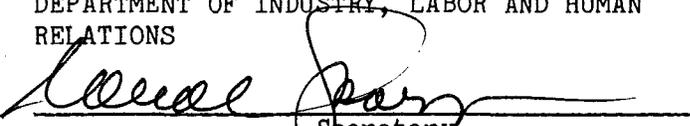
The attached rules shall take effect on July 1, 1992

_____ pursuant to section
227.22, Stats.

Adopted at Madison, Wisconsin, this

date: May 13, 1992

DEPARTMENT OF INDUSTRY, LABOR AND HUMAN
RELATIONS


Secretary

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State of Wisconsin \ Department of Industry, Labor and Human Relations

RULES in FINAL DRAFT FORM

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Bureau

Rule No.: Ind 80.73

Relating to: Health Service Necessity of Treatment Dispute

Resolution Process

(c) At the time it files the application with the department, the provider shall send or deliver to the insurer or self-insurer which is refusing to pay for the treatment in dispute a copy of all materials submitted to the department.

(d) When an application to resolve a dispute is submitted, the department shall notify the insurer or self-insurer that it has 20 days to either pay the bill in full for the treatment in dispute or to file an answer under par. (e) for the department to use in the review process in sub. (7).

(e) The answer shall include copies of any prior correspondence relating to the dispute which the provider has not already filed, and any other material which responds to the provider's application. The answer shall include the name of the organization, and credentials of any individual, whose review of the case has been relied upon in reaching the decision to deny payment.

(f) The department may develop and require the use of forms to facilitate the exchange of information. For information regarding forms contact the worker's compensation division, medical cost dispute unit, 201 East Washington Avenue, P.O. Box 7901, Madison, Wisconsin 53707.

(7) REVIEW PROCESS. (a) After the 20-day period in sub. (6)(d) for the insurer or self-insurer to answer has passed, the department shall provide a copy of all materials in its possession relating to a dispute to an impartial health care services review organization, or to an expert from a panel of experts established by the department, to obtain an expert written opinion on the necessity of treatment in dispute.

(b) In all cases where the dispute involves a Wisconsin provider, the expert reviewer shall be licensed to practice in Wisconsin.

(c) When necessary to provide a fair and informed decision, the expert may contact the provider, insurer or self-insurer for clarification of issues raised in the written materials. Where the contact is in writing, the expert shall provide all parties to the dispute with a copy of the request for clarification and a copy of any responses received. Where the contact is by phone, the expert shall arrange a conference call giving all parties an opportunity to participate simultaneously.

(d) Within 90 days of receiving the material from the department under par. (a), the review organization or panel shall provide the department with the expert's written opinion regarding the necessity of treatment, including a recommendation regarding how much of the provider's bill the insurer or self-insurer should pay, if any. At the same time that it provides an opinion to the department, the review organization or panel on which the expert serves shall send a copy of the opinion to the provider and the insurer or self-insurer which are parties to the dispute.

(e) The provider, insurer or self-insurer shall have 30 days from the date the expert's opinion is received by the department under par. (d) to present written evidence to the department that the expert's opinion is in error. Unless the department receives clear and convincing written evidence that the opinion is in error, the department shall adopt the written opinion of the expert as the department's determination on the issues covered in the written opinion.

(f) If the necessity of treatment dispute involves a claim for which an application for hearing is filed under s. 102.17, Stats., or an injury for which the insurer or self-insurer disputes the cause of the injury, the extent of the disability, or other issues which could result in an application for hearing being filed, the department may delay resolution of the necessity of treatment dispute until a hearing is held or an order is issued resolving the dispute between the injured employe and the insurer or self-insurer.

(8) PAYMENT OF COSTS. (a) The department shall charge the insurer or self-insurer the full cost of obtaining the written opinion of the expert for the first dispute involving the necessity of treatment rendered by an individual provider, unless the department determines the provider's position in the dispute is frivolous or based on fraudulent representations.

(b) In a subsequent dispute involving the same provider, the department shall charge the full cost of obtaining the expert's opinion to the losing party.

(c) Any time prior to the department's order determining the necessity of treatment, the department shall dismiss the application if the provider and insurer or self-insurer mutually agree on the necessity of treatment and the payment of any costs incurred by the department related to obtaining the expert opinion.

(9) DEPARTMENT INITIATIVE. In addition to the provider's right to submit a dispute to the department under sub. (6), the department may initiate resolution of a dispute on necessity of treatment when requested to do so by an injured worker, an insurer or a self-insurer. The department shall notify the insurer or self-insurer of its intention to initiate the dispute resolution process and shall direct them to provide information necessary to resolve the dispute. The department shall allow up to 60 days for the parties to respond, but may extend the response period at the request of either party.

(10) EXPERT PANELS. The department may establish one or more panels of experts in one or more treating disciplines, and may set the terms and conditions for membership on any panel. In making appointments to a panel the department shall consider:

(a) An individual's training and experience, including:

1. The number of years of practice in a particular discipline;
2. The extent to which the individual currently derives his or her income from an active practice in a particular discipline; and,
3. Certification by boards or other organizations;

(b) The recommendation of organizations that regulate or promote professional standards in the discipline for which the panel is being created; and,

(c) Any other factors that the department may determine are relevant to an individual's ability to serve fairly and impartially as a member of an expert panel.

(11) APPLICABILITY. This section first applies to health services provided on January 1, 1992, and shall take effect on July 1, 1992.

Tommy G. Thompson
Governor
Carol Skornicka
Secretary



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State of Wisconsin
Department of Industry, Labor and Human Relations

May 13, 1992

Gary Poulson
Assistant Revisor of Statutes
2nd Floor
119 Martin Luther King Blvd.
Madison, Wisconsin 53703

Douglas LaFollette
Secretary of State
10th Floor
30 West Mifflin Street
Madison, Wisconsin 53703

RECEIVED
MAY 13 1992
Revisor of Statutes
Bureau

Dear Messrs. Poulson and LaFollette:

TRANSMITTAL OF RULE ADOPTION

CLEARINGHOUSE RULE NO. 92-13

RULE NO. Section Ind 80.73

RELATING TO: Health Service Necessity of Treatment Dispute Resolution
Process

Pursuant to section 227.20, Stats., agencies are required to file a certified copy of every rule adopted by the agency with the offices of the Secretary of State and the Revisor of Statutes.

At this time, the following material is being submitted to you:

1. Order of Adoption.
2. Rules Certificate Form.
3. Rules in Final Draft Form.

Pursuant to section 227.114, Stats., a summary of the final regulatory flexibility analysis is included for permanent rules. A fiscal estimate and fiscal estimate worksheet is included with an emergency rule.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read 'Carol Skornicka'.

Carol Skornicka
Secretary