CR 94-82

CERTIFICATE

STATE OF WISCONSIN)
) SS
DEPARTMENT OF HEALTH AND SOCIAL SERVICES)

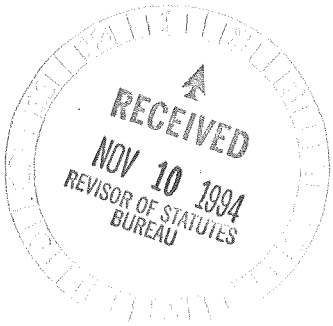
I, Gerald Whitburn, Secretary of the Department of Health and Social Services and custodian of the official records of the Department, do hereby certify that the annexed rules relating to reimbursement for the costs of treatment of chronic renal disease were duly approved and adopted by this Department on November 10, 1994.

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

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the official seal of the Department at the State Office Building, 1 W. Wilson Street, in the city of Madison, this 10th day of November, 1994.

SEAL:

Gerald Whitburn, Secretary
Department of Health and Social Services



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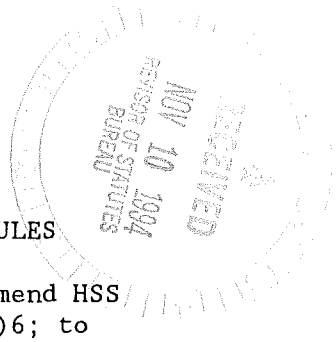

ORDER OF THE
DEPARTMENT OF HEALTH AND SOCIAL SERVICES
REPEALING, AMENDING, REPEALING AND RECREATING AND CREATING RULES

To repeal HSS 152.03 (Note) and 152.06 and Table 152.06; to amend HSS 152.01, 152.03 (2) (c), 152.04 (1), 152.07(3)(c)13 and 152.08 (3)(d)6; to repeal and recreate HSS 152.02(14), 152.03(title) and (1) and 152.04(2); and to create HSS 152.04(4m), (9m), (9t) and (9u), 152.06 and 152.065 and Table 152.065, relating to reimbursement for the costs of treatment of chronic renal disease.

Analysis Prepared by the Department of Health and Social Services

This order revises the Department's rules for operation of the program under ss. 49.48 and 49.487, Stats., of reimbursement for part of the costs of treating persons who have chronic renal (kidney) disease. Section 49.48, Stats., as affected by 1993 Wisconsin Act 449, directs the Department to implement a program to help eligible persons with chronic renal disease pay for treatment, and s. 49.487, Stats., as affected by 1993 Wisconsin Acts 16 and 449, directs the Department to implement a sliding scale for patient liability to pay for a portion of the costs of treatment.

The rules are revised to implement s.49.487(1), Stats., as created by 1993 Wisconsin Act 449, by requiring a person who is eligible for benefits and whose current family income exceeds 300% of the federal poverty guidelines to spend part of that income to pay for treatment of the kidney disease before receiving program assistance. The rules are also revised to modify the sliding fee of patient liability to pay a part of the cost of treatment, to specify a time limit for a patient to appeal a decision denying reimbursement or terminating certification, to reduce from 6 months to 90 days the period during which a provider may request a hearing on a decision to deny payment or on the amount of payment, to provide an exception to the requirement that a provider submit a claim for reimbursement within 24 months after providing the service, to permit the department to contract with a fiscal agent to process claims and determine eligibility for services and to correct and clarify the rules at various places.

The Department's authority to repeal, amend, repeal and recreate and create these rules is found in ss. 49.48(2)(a) to (c) and 227.11(2)(a), Stats., and s. 49.487(1), Stats., as created by 1993 Wisconsin Act 449. The rules interpret s. 49.48 Stats., as affected by 1993 Wisconsin Act 449 and s. 49.487, Stats., as affected by 1993 Wisconsin Acts 16 and 449.

SECTION 1. HSS 152.01 is amended to read:

HSS 152.01 AUTHORITY AND PURPOSE. This chapter is promulgated under the authority of ss.49.48(2), 49.487(1) and ~~140.05(3)~~ 227.11(2)(a), Stats., to implement a treatment cost reimbursement program for residents of Wisconsin who have chronic renal disease.

SECTION 2. HSS 152.02(4m), (9m), (9t) and (9u) are created to read:

HSS 152.02(4m) "Current year" means the 12-month period beginning with the month of a patient's first application to the CRD program, or beginning

with the month of a certified patient's subsequent annual recertification for the CRD program.

(9m) "Family" means a patient and that patient's spouse, if any, and any other person who is claimed as a dependent of that patient or that patient's spouse or who claims that patient as a dependent under the U.S. internal revenue code for the purpose of filing a federal income tax return.

(9t) "Federal poverty guidelines" means the annually updated poverty income thresholds by family size published each year by the U.S. department of health and human services in the federal register.

(9u) "Fiscal agent" means the organization under contract to the department to process claims and determine eligibility for services provided under the CRD program.

Note: The federal poverty guidelines for 1994 were published in the Federal Register, February 10, 1994, 6277.

SECTION 3. HSS 152.02(14) and (25) are repealed and recreated to read:

HSS 152.02 (14)(a) "Income," for the period January 1, 1994 to June 30, 1994, has the meaning prescribed in s. 49.485(1)(dm), 1991 Stats., except that a certified patient may for that period elect to use the definition under par.(b).

(b) "Income," beginning July 1, 1994, means a family's total earnings, including wages and salary and net income from self-employment, as well as unearned income including social security and supplemental security income, dividends and interest income, income from estates or trusts, net rental income, public assistance, pensions or annuities, unemployment compensation, maintenance or alimony, child support or family support, nontaxable deferred compensation, and nontaxable interest such as interest on federal, state or municipal bonds, but not capital gains income.

(25) "Resident" means any person who is living in Wisconsin with the intention of remaining permanently in the state. A person under the age of 18 is a resident if he or she is determined to be a resident in accordance with s.HSS 201.15.

SECTION 4. HSS 152.03 (title) and (1) are repealed and recreated to read:

HSS 152.03 ELIGIBILITY AND CERTIFICATION. (1) CONDITIONS. To be eligible for the CRD program, a patient shall:

(a) Be a resident of Wisconsin;

(b) Be diagnosed as having ESRD;

(c) If eligible for medicare, register and pay the premium for coverage by medicare; and

(d) Provide to the department or its designated agent full, truthful and correct information necessary for the department to determine patient eligibility and liability, including information about any change in income of more than 10%. A patient shall be denied reimbursement if he or she refuses to provide information, withholds information or provides inaccurate information. The department may verify or audit a certified patient's total family income. The department may redetermine a certified patient's estimated total family income for the current year based on change in the family's financial circumstances.

SECTION 5. HSS 152.03(2)(c) is amended to read:

HSS 152.03(2)(c) The department or its fiscal agent shall certify an eligible patient for reimbursement upon receipt from any dialysis unit approved under ss. HSS 152.05 and 152.08 or renal transplantation center approved under ss. HSS 152.05 and 152.07 of a satisfactorily completed application for certification submitted on behalf of the patient.

SECTION 6. HSS 152.03 (Note) is repealed.

SECTION 7. HSS 152.04(1) is amended to read:

HSS 152.04(1) A certified patient or, if the patient is a minor or has a guardian, the patient's parent or guardian shall inform the department within 30 days ~~of~~ after there is any change in the patient's address, other sources of health care coverage, income of more than 10% or family size.

SECTION 8. HSS 152.04(2) is repealed and recreated to read:

HSS 152.04 (2)(a) A patient applying for benefits or a certified patient may request an administrative hearing under subch. III of ch. 227, Stats., in the event that reimbursement is denied or certification is terminated.

(b) A request for a hearing shall be in writing and shall be filed with the department's office of administrative hearings within 45 days after the date of notice of denial of reimbursement or termination of certification. A request for a hearing is considered filed upon its receipt by the office of administrative hearings.

Note: The mailing address of the Office of Administrative Hearings is P.O. Box 7875, Madison, Wisconsin 53707.

SECTION 9. HSS 152.06 (1) to (4) are repealed.

SECTION 10. HSS 152.06 (1) to (3) are created to read:

HSS 152.06 PROVIDER REIMBURSEMENT. (1) CLAIM FORMS. (a) A provider shall use claim forms furnished or prescribed by the department or its fiscal agent, except that a provider may submit claims by electronic media or electronic transmission if the provider or billing service is approved by the department for electronic claims submission.

(b) Claims shall be submitted in accordance with the claims submission requirements, claim form instruction and coding information provided by the department or its fiscal agent.

(c) Every claim submitted shall be signed by the provider or the provider's authorized representative, certifying to the truthfulness, accuracy and completeness of the claim.

(2) TIMELINESS. (a) A claim shall be submitted within 24 months after the date that dialysis or transplant services were provided, except that a claim may be submitted later if the department is notified within that 24 month period that the sole reason for late submission concerns another funding source and the claim is submitted within 180 days after obtaining a decision on reimbursement from the other funding source.

(b) A claim may not be submitted until after the patient has received the dialysis or tranplant services.

(3) PAYMENT. (a) The department shall establish allowable charges for CRD services as a basis for reimbursing providers.

(b) Reimbursement may not be made for any portion of the cost of medical care which is payable under any other state or federal program, grant, contract or agreement.

(c) Before submitting a claim to the CRD program, a provider shall seek payment for services provided to a certified patient from medicare, medical assistance or another health care plan if the certified patient is eligible for services under medicare, medical assistance or the other health care plan.

(d) When benefits from medicare, medical assistance or another health care plan or other third party payer have been paid, in whole or in part to the provider, the amount of the payment from all other payers shall be indicated on or with the bill to the CRD program. The amount of the medicare, medical assistance, other health care plan or other third party payer reimbursement shall reduce the amount of the claim for CRD program payment.

(e) If a provider receives a payment under the program to which the provider is not entitled or in an amount greater than that to which the provider is entitled, the provider shall promptly return the amount of the erroneous or excess payment to the department.

(f) A provider may request a hearing to review a decision to deny payment or the level of payment. A request for a hearing shall be filed with the department's office of administrative hearings within 90 days after the date of the payment or decision to deny payment. A request for a hearing is considered filed upon its receipt by the office of administrative hearings. All appeals shall include written documentation and any information deemed necessary by the department. Hearings shall be conducted in accordance with subch. III of ch. 227, Stats.

Note: The mailing address of the Office of Administrative Hearings is P.O. Box 7875, Madison, Wisconsin 53707.

SECTION 11. HSS 152.06(5) to (8) and Table 152.06 are repealed.

SECTION 12. HSS 152.065 and Table 152.065 are created to read:

HSS 152.065 PATIENT LIABILITY. (1) CALCULATION. (a) A certified patient's liability to contribute toward the cost of treatment shall be calculated as follows:

1. If the patient's estimated total family income for the current year exceeds 300% of the federal poverty guidelines, the patient is liable to obligate or expend a portion of that income, as specified in sub.(2), to pay the medical expenses for treatment of kidney disease before the CRD program will provide assistance in paying for treatment;

2. The patient is liable for any deductible under sub. (3);

3. The patient is liable for a coinsurance amount based on the amount reimbursable by the CRD program and family size and income in accordance with sub. (4) and Table 152.065;

4. The sum of the patient's deductibles under sub. (3) and coinsurance obligation under sub. (4) in a year may not exceed the applicable percentage of income limit in sub. (5) unless the annual deductibles under sub. (3) are greater; and

5. In addition, the patient is liable for a copayment amount under sub. (6) when the pharmacy bills the CRD program.

(b) If there are 2 or more certified patients in the same family, the family's liability shall be limited to the liability of one member of the family.

(2) INCOME DEDUCTIBLE. A certified patient whose estimated total family income in the current year exceeds 300% of the federal poverty guidelines shall obligate or expend the following percentage of that income to pay the cost of medical treatment for the chronic renal disease before the CRD program will provide assistance in paying for the cost of treatment:

(a) When total family income is from 300% to 325% of the federal poverty guidelines, 0.75% of that income;

(b) When total family income is more than 325% but less than or equal to 350% of the federal poverty guidelines, 1.5% of that income;

(c) When total family income is more than 350% but less than or equal to 375% of the federal poverty guidelines, 2.25% of that income;

(d) When total family income is more than 375% but less than or equal to 400% of the federal poverty guidelines, 3.0% of that income; and

(e) When total family income is more than 400% of the federal poverty guidelines, 4.0% of that income.

(3) MEDICARE-EQUIVALENT DEDUCTIBLES. (a) An amount equal to the medicare part A deductible, as defined under 42 USC 1395e and 42 CFR 409.82, shall be assessed all certified patients for the first inpatient hospital stay in a 12-month period.

(b) An amount equal to the medicare part B deductible, as defined under 42 USC 1395L (b), shall be assessed all certified patients for the first outpatient visit in a 12-month period.

(4) PATIENT COINSURANCE. (a) The coinsurance amount which a patient pays to the provider as part of the cost of treatment of the patient's chronic renal disease shall be based on the amount reimbursable by the program.

(b) A patient's coinsurance amount shall be determined at the time the patient is certified for coverage and redetermined annually thereafter.

(c) The amount of a patient's coinsurance shall be related to family size and income, rounded to the nearest whole dollar, and expressed as a percentage of the charges for treatment in accordance with the schedule in Table 152.065.

(5) LIMIT ON LIABILITY. (a) Each patient's liability in a year for medicare-equivalent deductibles under sub. (3) and coinsurance under sub. (4) may not exceed the following applicable percentage of the family's income, rounded to the nearest whole dollar, unless the annual deductibles under sub. (3) are greater:

1. For an income of up to $10,000, 3%;

2. For an income of $10,001 to $20,000, 4%;

3. For an income of $20,001 to $40,000, 5%;

4. For an income of $40,001 to $60,000, 6%;

5. For an income of $60,001 to $80,000, 7%;

6. For an income of $80,001 to $100,000, 9%; and

7. For an income of $100,001 and over, 10%.

(b) The limit on liability under par. (a) does not include the income deductible under sub. (2).

(6) PATIENT COPAYMENT. When a pharmacy directly bills the chronic renal disease program for a prescription received by an ESRD patient, the patient is responsible for the same copayment amount a medical assistance recipient incurs for a similar prescription pursuant to s. 49.45(18), Stats. However,

the partial medical assistance copayment exemptions in s. 49.45 (18), Stats., do not apply to an ERSD patient.

Table 152.065
PATIENT COINSURANCE LIABILITY FOR THE DIRECT COST OF TREATMENT

Annual Family Income	Percent of Charges for Which Patient is Liable, by Family Size									
	1	*2*	*3*	*4*	*5*	*6*	*7*	*8*	*9*	*10+*
$ 0 - 7,000	1%	0%	0%	0%	0%	0%	0%	0%	0%	0%
7,001 - 10,000	2	1	0	0	0	0	0	0	0	0
10,001 - 15,000	4	2	1	0	0	0	0	0	0	0
15,001 - 20,000	7	4	2	1	0	0	0	0	0	0
20,001 - 25,000	11	7	4	2	1	0	0	0	0	0
25,001 - 30,000	14	10	7	5	3	2	1	0	0	0
30,001 - 35,000	17	13	10	8	6	4	2	1	0	0
35,001 - 40,000	20	16	13	11	9	7	5	3	2	1
40,001 - 45,000	24	19	15	13	11	9	7	5	3	2
45,001 - 50,000	29	24	20	17	15	13	11	9	7	5
50,001 - 55,000	34	29	25	21	19	17	15	13	11	9
55,001 - 60,000	39	34	29	25	23	21	19	17	15	13
60,001 - 65,000	44	39	34	30	28	25	22	20	18	16
65,001 - 70,000	49	44	39	35	32	29	27	25	23	21
70,001 - 75,000	55	49	44	40	37	34	32	30	28	26
75,001 - 80,000	61	55	50	46	43	40	37	35	33	31
80,001 - 85,000	67	61	56	52	49	46	43	40	38	36
85,001 - 90,000	74	68	63	59	56	53	50	47	45	43
90,001 - 95,000	81	75	70	66	63	60	57	55	53	51
95,001 - 100,000	88	82	77	73	70	67	64	62	60	58
$100,000+	97	91	86	82	79	76	73	71	69	67

Note: To illustrate how a patient's coinsurance liability is calculated, assume that the family has 2 members and an annual income of $38,000, and that a bill has been received for treatment in the amount of $600. The patient would be liable for 16% of that bill, or $96.

SECTION 13. HSS 152.07(3)(c) 13 is amended to read:

HSS 152.07(3)(c)13 Blood urea nitrogen (BUN), creatinine, serum ~~glutamic oxaloreetic~~ glutamic-oxaloacetic transaminase (SGOT), serum glutamic-pyruvic transminase (SGPT), lactic dehydrogenase (LDH) and prothrombin time; and

SECTION 14. HSS 152.08 (3)(d)6 is amended to read:

HSS 152.08(3)(d)6 Blood urea nitrogen (BUN), creatinine, uric acid, serum ~~glutamic-oxaloagetic~~ glutamic-oxaloacetic transaminase (SGOT), lactic dehydrogenase (LDH) and alkaline phosphatase; and

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

Wisconsin Department of Health and Social Services

Dated: November 10, 1994

By: _____
Gerald Whitburn
Secretary

SEAL: